



PARVATIBAI JONDHALE WOMEN'S LAW COLLEGE

DOMBIWALI (EAST)

S.N.D.T. WOMEN'S UNIVERSITY

MAHARASHTRA STATE HUMAN RIGHTS COMMISSION VISIT REPORT

Approved and Check By


I/c Principal
Parvatibai Jondhale Womens Law College
Dombivli (E)



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ACKNOWLEDGEMENT

We, students of **T.Y.L.L.B & S.Y. L.L.B** would like to pay our sincere gratitude towards our Principal, Priyanka Singh Madam, for arranging our visit to the State Human Rights Commission for the purpose of understanding the Role of the Maharashtra State Human Rights Commission and its functioning.

We also thankful to Maharashtra State Human Rights Commission team to make us understand the Role of Chairperson, Members, Secretary, Superintendent of Police, Registrar, Spl. Inspector General of Police, Court and the role of Public Prosecutor and the in a much Practical Way.

STUDENTS OF T.Y.L.L.B & S.Y. L.L.B

PARTICULARS OF VISIT

NAME: Maharashtra State Human Rights Commission

LOCATION: 9, Hazarimal Somani Marg, Opp. CSMT Station, Mumbai-400001

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DATE AND DAY OF VISIT :

Date	Time	Day
28-09-2022	10:30 AM TO 03:00 PM	Wednesday

PURPOSE OF VISIT :

The purpose of the visit was to understand the working of a Maharashtra State Human Rights Commission, the nature of duties of the judicial officers. The visit was to help us understand the role of Maharashtra State Human Right Commission in dispensing justice in any case, the role of prosecutors in a case, the way cases proceed in Maharashtra State Human Rights Commission, the way judges, prosecutors and defence lawyers handle the case, the relationship of the prosecutors and the police. This gave us an opportunity to understand the actual need of co- ordination in the four pillars of the civil justice system.

The visit included an in-depth study of the day-to-day functioning of the State Human Right Commission, at different levels and over a vast variety of cases. The aim was to evaluate the resources available and the distribution of power between the Role of Chairperson, Members, Secretary, Superintendent of Police, Registrar, Spl. Inspector General of Police, Court and the role of Public Prosecutor and the in a much Practical Way..

INTRODUCTION

Maharashtra State Human Rights Commission

The Maharashtra State Human Rights Commission (MSHRC) was constituted on 6 March 2001 as per International Covenants and Protection of Human Rights Act, 1993, for the protection and promotion of human rights.

OPERATIONAL STRUCTURE

HEADQUARTERS : MUMBAI, MAHARASHTRA

AGENCY EXECUTIVES:

S.NO	DESIGNATION	NAME
1	Chairperson	Justice K. K. Tated
2	Member	Shri M. A. Sayeed
3	Member	Shri Bhagwant D. More
4	Secretary	Shri Tukaram Mundhe, IAS
5	Spl. Inspector General of Police	Dr Ravindra Shisve
6	Registrar	Swarupa Gholap
7	Superintendent of Police	Shri Sachin Pandkar

MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

The Maharashtra State Human Rights Commission is charged with the protection of Human Rights or investigating any violations that occur within their respective state. A Maharashtra State Human Rights Commission can investigate violations of human rights in matters covered under the Seventh Schedule's state list and concurrent lists under the Constitution. According to the Human Rights Act, 1993 (with Amendment Act, 2006), it has three members, one of whom is the chairperson. Cases pertaining to human rights violation or negligence by a public servant, suo moto, or on the basis of a petition brought to it by a victim or any person acting on his behalf, are dealt with at Maharashtra State Human Rights Commission.

The Act ensures Institutional Autonomy and immunities for the Chairperson and Members hence independence is guaranteed Easy approachability complaint can be on a plain piece of paper in any 3 languages (Marathi, Hindi and English) No fees charged Less cumbersome procedure Speedy justice Assistance of Professional lawyer is not required. The complainant can argue his case before the Commission and even in his absence, the Commission itself steps into his shoes and consider the case from his point of view.

OBJECTIVE

The Commission endeavors to reach out to the people of the State and ensure Protection and Promotion of Human Rights, as mandated in the Art covering a wide range of following issues:

- Social aspects
- Illegal detention and Bonded labour
- Women and Children
- Rights of Physically and Mentally handicapped
- Training of law students and NGO's on Human Rights
- Right to shelter Health and Environment
- Senior Citizens
- Implementation of various schemes of the State Government
- Spread Human Rights Awareness amongst the members of the public.

PUBLIC SERVANTS

As defined under section 21 of the Indian Penal Code, 1860 "Public servant denotes every officer of the State Government who holds a public office or who is in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty by the Government." All the local self-government bodies including Municipal Corporations, Municipalities, Zilla Parishad, Government Medical Hospitals etc.

FUNCTIONS OF THE STATE HUMAN RIGHTS COMMISSION

- Investigate a complaint of human rights violation or negligence by a public servant, suo moto, or on the basis of a petition brought to it by a victim or any person acting on his behalf.
- the consent of the court, intervene in any case involving any claim of human rights violation.
- Visit any jail or other body under the administration of the State Government where people are incarcerated to examine the inmates' living conditions and provide recommendations.
- Examine the protections for the protection of human rights established by or under the constitution of any legislation now in force, and provide recommendations for their effective implementation.
- Examine the reasons that obstruct the enjoyment of human rights, including acts of terrorism, and provide recommendations for appropriate remedies.
- Conduct and promote human rights research.
- Promote human rights literacy and understanding of the measures available to defend these rights among diverse segments of society.
- Support non-governmental organizations and institutions that operate in the field of human rights.
- Perform any other tasks it deems necessary for the advancement of human rights.

PROCEDURE TO FILE A COMPLAINT

- The complaint may be written in Marathi, Hindi or English language by any victim of Human Rights Violation or any other person on his behalf:
 1. To be presented in person or by Post,
 2. No fee is charged on complaint.
 3. No Court fee stamps are required.
 4. No need to engage lawyer.
- The complaint against any Public Servant required to be addressed to the Chairperson/Secretary of the Commission and should mention following information:
 1. The Complainant's full name
 2. Postal address of the complainant
 3. Date & Place of incident
 4. Time of incident
 5. Specify details of violation of Human Rights
 6. Complaint against which Public Servant/Government
 7. Department/Government Organization/ Government Authority
 8. Whether the matter is pending in any Courts, National Human Rights Commission, New Delhi, Tribunals or any other Statutory Forums
 9. Relief prayed for.

COMPLAINTS WHICH ARE GENERALLY NOT ENTERTAINED:

The complaints of the following nature are generally not entertained by the Commission namely:

- Vague, anonymous, Pseudonymous, illegible, trivial or frivolous;
- Barred under sub-section (1) of section 36 of the Protection of Human Rights Act, 1993, when the dispute is pending before any Other Commission;
- Barred under sub-section (2) of section 36 of the Protection of Human Rights Act, 1993, when the complaint is presented after one year from alleged violation of Human Rights;
- Barred under sub-section (5) of section 21 of the Protection of Human Rights Act, 1993, when the complaint does not pertain to State subject viz Railways, Defense, Postal Department etc;
- Relate to civil dispute, such as property rights/ contractual obligations/ family/ matrimonial disputes;
- Relate to service matters or labour or industrial disputes;
- Allegations are not against any public servant;
- Allegations do not make out any specific violation of Human Rights;
- Matter is subjudiced before a Court or Tribunal;
- Matter is covered by Judicial Verdict or decision of the State Commission;
- Where a copy of the Complaint addressed to some other authority is received by the Commission; or
- Matter is outside the purview of the Commission.

PROCEDURE FOLLOWED BY THE COMMISSION

1. Registration;
2. Scrutiny of cases by Legal Wing;
3. Placed before the Chairperson/ and or/ Member to decide regarding maintainability;
 - a) if not maintainable, order rejecting the complaint will be passed and complainant will be informed accordingly;
 - b) If maintainable:
 - i) Call for report from the concerned authority;
 - ii) On receipt of the report, the Chairperson, and or/ Member looks into the same and if satisfied that no further inquiry is required, may close case under section 17(1)(b) of the Act;
 - iii) If further enquiry is to be made a copy of the report to be sent to the complainant and call for rejoinder, if any;
 - iv) If necessary, the Commission may independently investigate the case by the Investigation Wing of the Commission; Call for the report from special I.G.P. (MSHRC) V
On receipt of all records/reports post for hearing and final order.

POWERS OF THE COMMISSION RELATING TO INQUIRIES

The Commission has all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 which includes among others:

- 1) (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 commissions 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 want to. The Subject matter of the enquiry and any persons so quired 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 gazette specially authorized in this behalf by the Commission may search building or place where the Commission has reason to that any document relating to the subject matter of the inquiry may be found and may seize any such document or take extract or copies there from subject to provision 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 offence as is described in section 175, 178, 179, 180 or 228 of 4 Indian Penal Code is committed in the view or presence of its Commission, the Commission may, after recording the fact constituting the offence and the statement of the accused as provider for in the Code of Criminal Procedure, 1973, forward the case to Magistrate having jurisdiction to try the same and the Magistrate 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 the Criminal Procedure, 1973.

5) Every proceeding before the Commission shall be deemed to ha 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) 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 such complaint shall be transferred unless the same is one respecting which the State Commission has jurisdiction to entertain the same.

7) 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.

STEPS ARE OPEN TO THE COMMISSION AFTER ENQUIRY

The Commission may take any of the following steps under section 18 upon the completion of an inquiry:

1. Where the inquiry discloses the commission of violation of human rights or negligence in the prevention of violation of human rights by a public servant, it may recommend to the concerned Government or authority the initiation of proceedings for prosecution or such other action as the Commission may deem fit against the concerned person or persons;
2. Approach the Supreme Court or the High court concerned for such directions, orders or writs as that Court may deem necessary;
3. Recommend to the concerned government authority for the grant or the members of such immediate interim relief to the victim or the members of his family as the Commission may consider necessary;
4. Subject to the provisions of clause (5) provide a copy of the inquiry report to the petitioner or his representative,
5. The Commission shall send a copy of its inquiry report together with the comments of the concerned Government or authority shall, within the 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
6. The Commission shall publish its enquiry report together with the comments of the concerned government or authority and if any and action taken or proposed to be taken by the concerned authority on the recommendations of the Commission.

THE WINGS OF THE COMMISSION

There are three wings of the Maharashtra State Human Rights Commission namely:

- 1. Administrative Wing**
- 2. Legal Wing**
- 3. Investigation Wing**

Administrative Wing headed by an officer of the Rank of Secretary to the State Government who is also the Chief Executive Officer of the Commission;

Legal Wing headed by the Registrar Complaints are processed by the Legal Wing of the Commission;

Investigation Wing headed by an Inspector General of Police on the direction of the Commission to investigate into the complaints of Human Rights Violation.

SHORT-TERM INTERNSHIP PROGRAMME

Besides the regular summer and winter internship programme which are held in May-June and December-January every year, NHRC also offers opportunities throughout the year except during months of May-June and December-January, to students from various streams especially from law stream, to have attachment with the Commission in batches on short-term basis for a period of 15 days. During the internship, the students are exposed to the functioning of various divisions of the Commission. They are also made aware of the process of complaints being attended to by the Commission as well as other issues being taken up. Allowing them interaction with the complainants also is an important feature.

PERSONAL OBSERVATION

On our visit to the Maharashtra State Human Right Commission (MSHRC) Mrs. Priyanka Kishori Singh Ma'am, our principal and 3 professors namely Mrs. Kamaleshwari A.H. Ma'am, Ms. Neha Upadhyay Ma'am, and Mr. Manan Rajani Sir, and we overall 20 students visited Maharashtra State Human Right Commission. It was awesome experience as each member was sharing their valuable thoughts with us. We got the opportunity to learn about functioning of Maharashtra State Human Right Commission.

Ms. Swarupa Dholap, the Registrar (Deputed Judge) welcomed us and took us in their Conference Room and gave us guidance about how to keep decorum and how to respect Judges and other members of MSHRC and also issued information booklet of Maharashtra State Human Right Commission.

Chairperson- Justice K.K.Tated Sir explained regarding the Judicial Authority and function of MSHRC and has shared views on Why Human Rights are important and why we should take action against any Public Servant for not serving or infringing rights of others, cause its fundamental rights of every person to have life, education, liberty, humanity. Further he explained Procedure to File Complaint with MSHRC. They stated that they will accept complaints by oral or by simple letter or will take suo moto action based on Newspaper reports.

Members Shri.Sayeed and Shri.More Sir have told us regarding:

- how people takes advantages of lack of knowledge and for this we all should be aware that not to infringe our rights from other person and we must lodge a complaint against Public Authorities as they are failing to discharge their duties in public.
- MSHRC is Quasi-Judicial Authority, No Court fees, No notice, No Specific form for submission of complaint. Complaint can be oral or in written form, suo-moto action can be taken based on Electronic Media. Commission is differing from others because of pendency, daily 30 to 40 matters get resolved under this commission. It includes cases which are not tenable i.e Matrimonial. Civil property dispute, child labour, abuse of child. About 90% of cases on recommendation has been approved by State Government.

- They also informed us that their order has been charge through Writ petition. Government is not vigilant in commission. Its not the case Home Department is Licensing Department.
- Complaint should be made by 4 ways :
 - 1.By Post
 - 2.By Hand
 - 3.By Email at registered Email ID
 - 4.By National Human Right Commission (Complaint Management System
- Its working on basic rule that is on Constitutional Preamble We the People of India, so commission put emphasis on Fundamental Part III & IV i.e State Policies are equal to Fundamental duties. If in case of any complaint that should made within the period of 1 year its compulsory.

Registrar IG Swaroopa Gholap Ma'am shared their valuable views with us by starting:

- the process that is there are three wings specifically that is Administrative Wing, Legal Wing & Investigation Wing.
- The Ratio for Tenable to Non Tenable Cases are 50:150 If they are non-tenable it has been inwards in Inward Entry, which are Tenable they can be desk and can take legal action on basis of this Registrar connect and framed report which either accepted or rejected by Chairperson.
- If chairperson finds that this is Tenable then it leads to Court Hearings machinery & procedures starts.
- In case of Non Tenable cases decided in closed office and may dismissed in limine i.e. without giving opportunity to witness dismissing complaints at his face and communication of such order to complaint sent by Post or by Ordinary Post

Spl. Inspector General of Police Dr.Ravindra Shisve Sir told us that the parameters for this are not clear at a times so many complicated issues & facts etc so course of hearing it is not possible

- In CRPC we can say investigation

S.154 etc in schedule - I Registration of FIR in this act is not cognisable

S.155(2) for Investigate the case (court directs)

M case for investigation (police order an FIR)

S.155(2) includes Suo-Moto Order

S.156(3) Purely Private Complaint

S.153 Approaching DCP. If Court Satisfied then give order.

- Prima facie there complaint must satisfy given order or Inquiry as per CRPC, as per act it is called Investigating wing but in commission we go as per Civil Procedure Code. Commission may ask to record statements. give summons not as per CRPC, correction of the statement should be there, it is not admissible in court. He further explained difference between Investigation in Police Station and Human Right Commission.
- Further he explained that every matter is denovo. During Investigation process it is necessary to find out that what is exactly to be done i.e. Course of Action and it is very important that facts need to be checked and recording statements.
- Further in case opportunity of hearing to any Public Servant, report from highest authority must be taken, he explained with illustration if IAS officer act against Human Rights complaint should be to DCP. And if authority think if she deserves permission then they record the same and go back and do investigation and review the action and make report. MSHRC follows Natural Justice System i.e. every one should get right to be heard and Protecting right, Just fair and objective administration.
- He also given reference of D.K. Basu and Lalita Kumari case reference while explaining violation of human rights (beaten by police while in custody)
- Further he stated every case is different. Human Rights is very vast in nature so as the grievances so for taking actions they must be objective and vigilant. Every Month 75 reports filed by him and every report was excepted and no any person or any public authority challenged it.
- Earlier it was table job and application of mind was missing, there was difficulty in conclusion and because of Shisve Sir Expert knowledge procedure are getting easy and faster to understand and illustration.
- He also explained us structure and working of MSHRC with some Shlokas Bhgwatgeeta and Ghyaneshwari and with motivational proverbs.

- He further stated Human Right Commission is Umbrella but there are some lacuna in the Protection of Human Rights Act, 1993 as it does not categorically empower the MSHRC to act against private parties in the case of human rights violation. Hon'ble High Court or Supreme Court make amendments that which matter cover under human rights and which matter dose not then it become easy to understand the case and illustration

Public Prosecutor Shri Shiv Kumar. Who works in court Room no. 202 in the Court of Additional Sessions Judge shri Rajneesh Bhatnagar.

After getting all this knowledge and information we were taken to Court Room No.3 to Attained hearing of one of Case as follow:

Complainant – “A” Age :About 30 Years Place: Kerala

Accused – “B” and others should be Police Officers (many),

Facts: In 2016, A (law student that time) met an accident while traveling with his friend (S). Friend died in hospital while undergoing medical treatment. His car was stolen when the accident happened. After complaint, copy of FIR was not given but copy of polise diary was given.

After 4-5 hours around 10-10:30 PM he got a message that he has found a car from Police Station, check it is yours. And was called to the chemical factory behind the house. As soon as A told that the car belonged to him, suddenly 10-12 policemen started smashing the car with their sticks. Later, B & others filed an FIR against A to induce that he did all this for insurance. A's father is a public servant working in passport related matters. They were also harassed by B & others .

Judgement: Hon able judge took all the sides together. Discussed some issues. Where is the factory where the car was found and what kind of factory is it? Names of some officers were taken.

He gave the next hearing date 28th October and assured that even if he can't come in person, it doesn't matter because we are also the advocates of the complainant. It was also told that we will check all the checkpoints and ask for a report.

STRUCTURE OF THE COURT ROOM

The Court room is a hall consisting of a raised pavilion which has a podium for the Honourable Judge at the Centre.

Below one stenographer at the right corner noting down the fact in issue

One reader at the left corner with a PC.

The complainant in front of the judge stating the facts of the case

FUNCTIONS OF COURT ROOM STAFF

Reader to the Honourable judge: He/she maintains all the case files of the cases being heard in the court and prompts the judge with the various cases and other documents.

Steno of the Honourable judge: Types each and everything going on in the court room and Records the orders of the Honourable judge.

Ms.Swarupa Dholap madam took small introduction of all of us concluded the meeting by apprising our Principal. She also explained us Procedure and Information about pro-bono activity and volunteer/summer internship programs. Email to initiate the admission process for the same for obtaining the knowledge of MSHRC.

It was told how to express your interest by sending resume to id registrar-mshrc@gov.in.

At last, we return one feedback in the register about our experience of MSHRC Visit.

While leaving there, a photo session was done with prior permission.

CONCLUSION

Overall, it would be an effort to introduce a human rights framework and substantial obligations to legislative procedures, creative policy-making, and programmes executed at both the national and state levels. Its major contribution to the protection and promotion of human rights in India and the concerned states has evaporated, leaving behind the expected role of investigating alleged violations, examining public inquiries, exercising jurisdiction, determining whether there is a need for providing direction and assistance to governments, and raising awareness about human rights education among lawmakers, academicians, stakeholders, and students, as well as the general public. Furthermore, hosting human rights-related seminars, workshops, and conferences has been beneficial to the strengthening of our country's human rights jurisprudence. The effective teamwork of NGOs, stakeholders, legal experts, academicians, and the general public can lead to the effective functioning of the human rights commissions.

The visit was a great experience to all of us. We got the knowledge & functions, procedure and powers of MSHRC.

Thank you our Principal Priyanka Singh Ma'am and all our professors to make it happen.

PHOTOGRAPHS





Thank you!!