

2015-2016



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION



15TH ANNUAL REPORT
FROM 1ST APRIL 2015 TO 31ST MARCH 2016



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

15TH ANNUAL REPORT

April, 2015-March, 2016

“Human Rights are not a privilege conferred by Government. They are every human being’s entitlement by virtue of his humanity.”

- Mother Teresa

This is the 15th Annual Report of the Maharashtra State Human Rights Commission for the period 01.04.2015 to 31.03.2016 and the Commission is glad to present the Annual Report along with graphics.

The Maharashtra State Human Rights Commission was established on 6th March 2001 as per Protection of Human Rights Act, 1993. The Commission became operational from 6th March 2001.

The United Nations through its instruments in international and regional institutions seeks to promote, protect and implement Human Rights in a uniform manner throughout the world.

During the period of this report Hon'ble Chairperson, Justice S R Bannurmath and Hon'ble Member Shri. Bhagwantrao D More are functioning as the Commission. However, one post of Hon'ble Judicial Member is still vacant.

Under the Protection of Human Rights Act, 1993 the Commission is entrusted to inquire into either complaint by victim or suo moto or any petition presented to it by any person including NGOs, bringing it to the notice of the Commission the violation of human rights by any public Servant, as defined under Section 21 of the IPC. The other functions of the Commission are keeping watch over custodial homes including the lock-up, prison, orphanages, beggars home and any other Government Institution wherein the citizens are to be looked after by the State or its machinery.

It is mandatory for the Commission to enquire into the cases of custodial deaths or encounter deaths.

Because of unawareness in the public regarding their human rights and how to get redressal of their grievances, the Commission has been making efforts to bring awareness by holding camp sittings and awareness camps at District and Divisional levels in the State and impart training in human rights to the law students. The object is to hold on the spot inquiry, bringing awareness to the public and to sensitize public servants about the protection of human rights of the citizens. The Commission is happy to note that such camp sittings have brought to some extent awareness in most of the districts of Maharashtra. The Commission has also published small booklets about the Commission & its functioning in both Marathi and English which are given free of cost to the public. All these efforts of awareness programmes no doubt has brought in large number of cases, which the Commission has been dealing on war footing.



(Bhagwantrao D More)

Member



(Justice S R Bannurmath)

Chairperson

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CHAPTER I - INTRODUCTION

Human Rights are the rights a person has simply because he or she is a human being. Human Rights are held by all persons equally, universally, and forever. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. According to Immanuel Kant, a German philosopher, human beings have an intrinsic value that is absent in inanimate objects. To violate a human right would therefore be a failure to recognize the worth of human life. Human right is a concept that has been constantly evolving throughout human history. They have been intricately tied to the laws, customs and religions throughout the ages. Most societies have had traditions similar to the "golden rule" of "Do unto others as you would have them do unto you." The Hindu Vedas, the Babylonian Code of Hammurabi, the Bible, the Quran (Koran), and the Analects of Confucius are five of the oldest written sources which address questions of people's duties, rights, and responsibilities.

Human rights are fundamental to the stability and development of countries all around the world. Great emphasis has been placed on international conventions and their implementation in order to ensure adherence to a universal standards of acceptability. With the advent of globalization and the introduction of new technology, these principles gain importance not only in protecting human beings from the ill-effects of change but also in ensuring that all are allowed a share of the benefits.

Everyone is entitled to these rights, without discrimination. International Human Rights Law lays down the obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups. Our constitutional framers had also incorporated UDHR provisions in the Constitution of India as Fundamental Rights. The Indian Parliament passed The Protection of Human Rights Act, 1993. This Act provides safeguard against violation of human rights. This Act has provision to establish the National and State Human Rights Commission as well Human Rights Court on the District level. The **Maharashtra Human Rights Commission** was established on the **6th March, 2001** as per the **International Covenant and Protection of Human Rights Act, 1993**, for the protection of Human Rights.

COMPOSITION OF THE COMMISSION

The Maharashtra State Human Rights Commission is an Autonomous and Statutory Body comprising of:

- A Chairperson who has been a Chief Justice of a High Court;
- One Member who is, or has been, a Judge of a High Court or District Court Judge in the State with a minimum of seven years experience as District Judge;
- One Member to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to Human Rights.

FUNCTIONS OF THE COMMISSION

The main function of the Commission is to keep watch and enquire into violation of Human Rights by the Public Servant.

As provided in Section 12 of the Act the Commission shall perform all or any of the following functions namely:

(a) Inquiry, suo moto 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, into complaint of

- Violation of human rights or abetment thereof; or
- 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) 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 there on to the Government;

(d) Review the safeguards provided by or under the constitution or any law for time being in force for the Protection of Human Rights and recommend measure 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 recommendation 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 in the media, seminars and other available means;

(i) Encourage the efforts of Non-Governmental Organizations (NGOs) and Institutions working in the field of Human Rights;

(j) Such other functions as it may consider necessary for the Protection of Human Rights.

HOW CAN THE COMPLAINTS BE MADE?

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

FOCUS OF THE COMMISSION

The Commission endeavours to reach out to the people of the State and ensure Protection and Promotion of Human Rights, a mandate in the Act, covering a wide range of following issues:

- Review the factors, that inhibit the enjoyment of Human Rights and recommend appropriate remedial measure.
- Illegal detention and bonded labour
- Keeping check over violation of Human Rights in custodial Homes/Institutions.
- Women and children
- Rights of physically and mentally handicapped
- Training of law student and NGOs on Human Rights
- Right to shelter
- Health and environment
- Senior citizen
- Implementation of various schemes of the State Government
- Spread Human Rights Awareness amongst the member of the society.

Social Issues	Illegal Detention and Bonded Labour	Women and Children	Rights of persons with disabilities
Rights of inmates in Custodial Homes/Institutions	Right to Shelter	Health and Environment	Senior Citizens
Training of Law Students and NGOs on Human Rights	Implementation of various State Government Schemes	Human Rights Awareness	Surprise Visits to different institutions

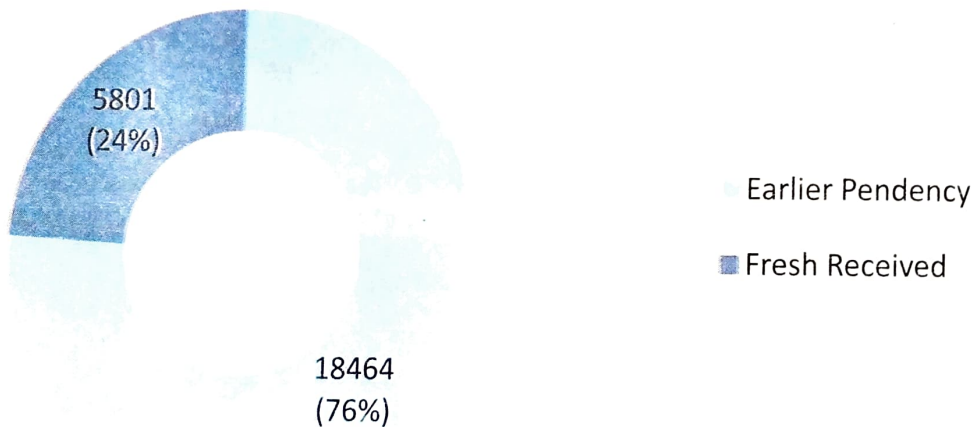
CHAPTER II – COMPLAINTS HANDLED BY THE COMMISSION

From 1st January, 2015 to 31st December, 2015, the Commission received a total number of 5801 complaints. The following chart is showing the details about the fresh complaints received, pendency as well as the number of cases disposed of.

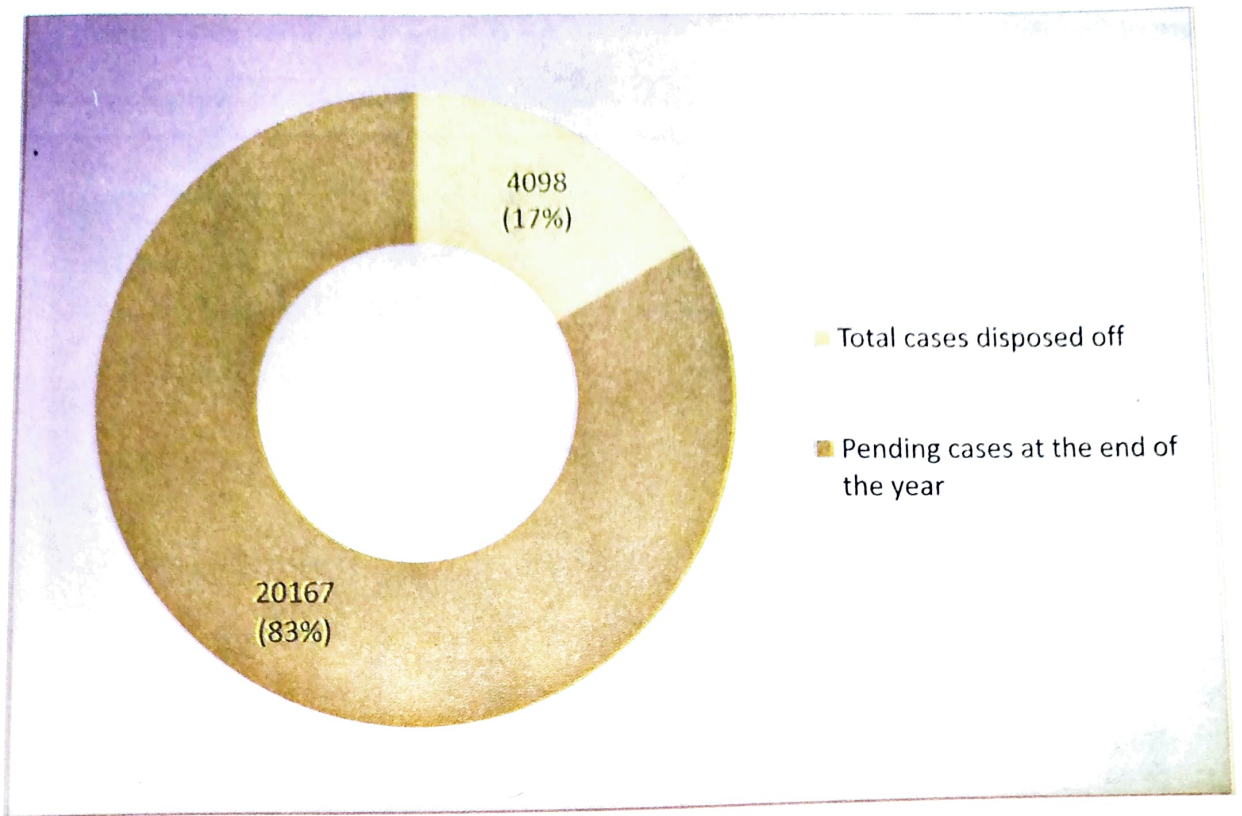
Statistical Chart of the Cases from 1-1-2015 to 31-12-2015

Earlier Pendency	Fresh Received	Total Cases during this period	Total disposed of during this year	Total Relief given	Pending cases at the end of this period
18464	5801	24265	4098	11	20167

Total cases = 24265



Total Relief Given = 11



Nature of Complaints

Against the Police Force – These complaints mostly included complaints alleging abuse of power by the police force, failure to register offence, illegal detention etc. = **1808 matters**

Against Other Government Departments = **177 matters**

Complaints regarding violation of human rights of prisoners = **52 matters**

Complaints against Judiciary = **4 matters**

Complaints against Bank = **63 matters**

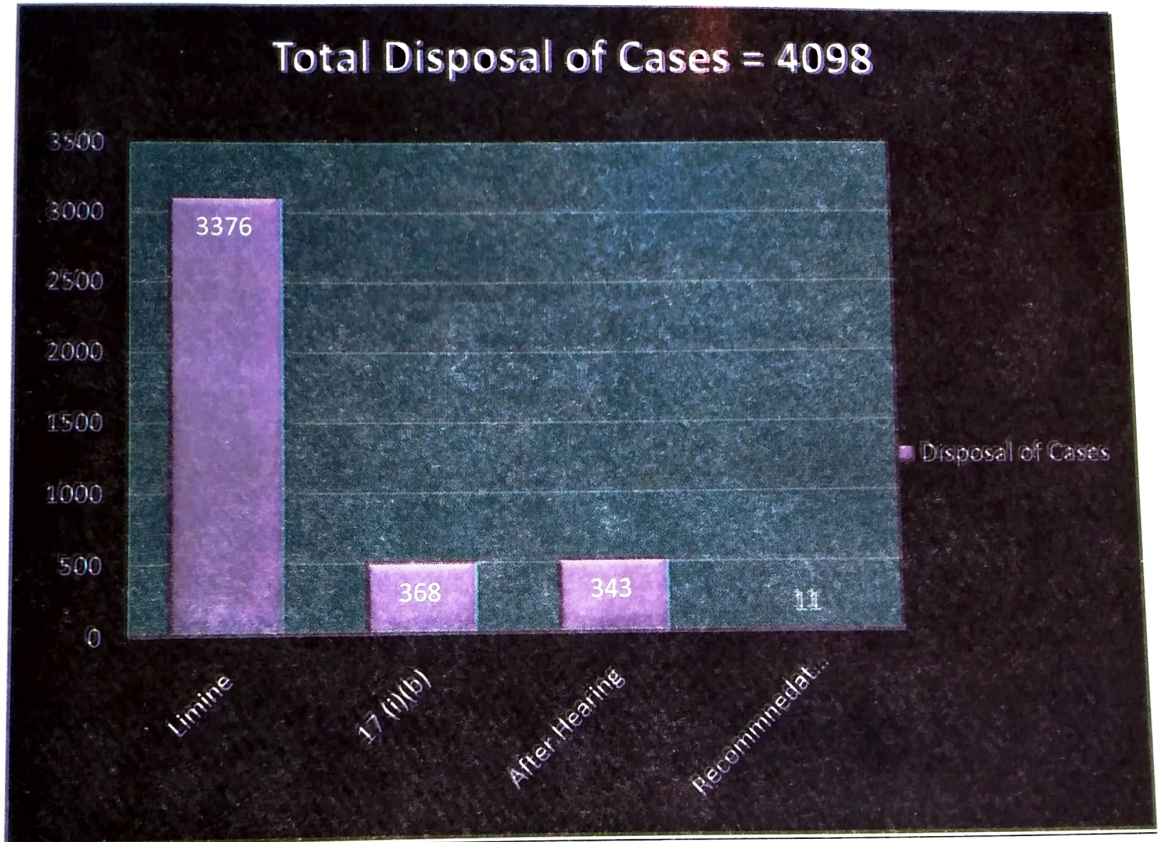
Complaints regarding Service Matters = **673 matters**

Complaints regarding atrocities to SC/ST or other minorities = **10 matters**

Other Miscellaneous Complaints = **3014 matters**

Total Disposal of Court 1, 2 & 3 from January 2015 to December 2015

Period	Limine	17 (i)(b)	After Hearing	Recommendation	Total
January 2015 to December 2015	3376	368	343	11	4098



CHAPTER III – VISITS BY THE HON'BLE CHAIRPERSON AND THE HON'BLE MEMBERS

Details regarding Official Visits to Jails and Police Stations from 1st April, 2015 to 31st March, 2016:-

Sr. No.	Date of Visit	Place of Visit	Purpose of Visit
1	8.07.2015	Amaravati	Surprise Checks and Inspection made to Phaijapura Police Station
2	10.07.2015	Buldhana	Surprise Checks and Inspection made to Bazarpeth Police Station, Buldhana
3	16.12.2015	Pune	Surprise Checks and Inspection made to Yerawada Central Prison

The Seminar, Conferences and other important events attended by the Hon'ble members of Commission between 1st April 2015 to 31st March, 2016:-

Sr. No.	Date of Event	Place of Event	Purpose
1.	20.05.2015	Kolhapur	Camp Sitting at Kolhapur
2.	21.05.2015	Kolhapur	Awareness programme for the public and Sensitization Programme on Human Rights for the Officers
3.	25.06.2015	Mumbai	Interaction with members of YuvakBiradri an NGO for Rural Youth Development
4.	07.07.2015	Amravati	Camp Sitting
5.	08.07.2015	Amravati	Awareness Programme for the Public and Sensitization programme on Human Rights for the Officers
6.	09.07.2015	Buldhana	Camp Sitting
7.	29/8/2015	Mumbai	Speaker at LYPD Programmed "Psychology of Rapist" at Bhavan's College, Andheri
8.	1/9/2015	Mumbai	Programme on Good Governance at NCPA
9.	18/9/2015	New Delhi	Meeting organised by NHRC with all the SHRCs at Symposium Hall NASC Complex in NHRC

10.	31/1/2016	Pune	National Moot Court Competition at Shankar Rao Chavan Law College
11.	12/2/2016	Pune	Inauguration Function of 23 rd IAPC (Indian Association of Palliative Care) Conference
12.	3/3/2016	Nashik	Inauguration of training programme at Maharashtra Police Academy
13.	27/3/2016	Pune	Medico Legal Conference by Core India Institute of Legal Medicine

Internship & Training:

Visit by Institutions:

<u>Sr. No.</u>	<u>Date of Visit</u>	<u>Name of Institution</u>	<u>Participants</u>
1.	02/01/2016	Hurt Foundation, Mumbai	21, PG Diploma in Human Rights Students
2.	02/02/2016	College of Social Work, Nirmala Niketan, Mumbai	55, MSW Students

INTERNSHIP:

Internship programme is conducted twice in a year during winter and summer to the Law student. These students come from various law colleges/universities all over the countries.

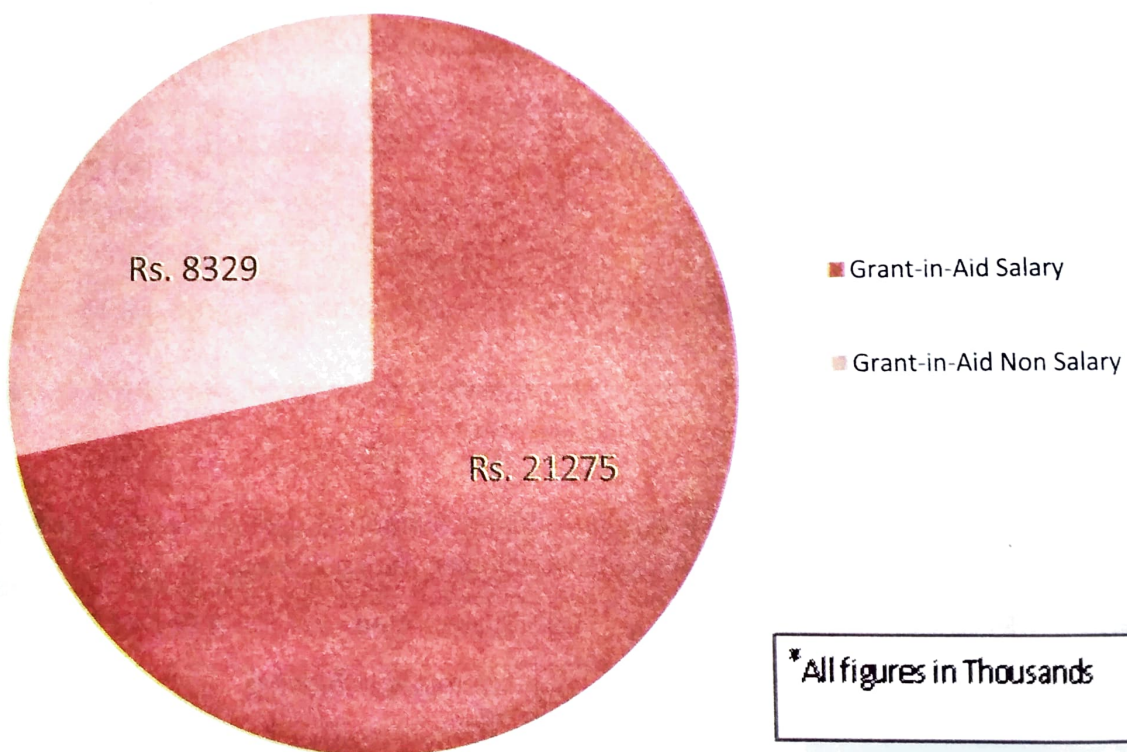
<u>Sr. No.</u>	<u>Period</u>	<u>Programme</u>	<u>No. of Participants</u>
1.	01.06.2015 to 30.06.2015	Summer Internship	25
2.	01.12.2015 to 30.12.2015	Winter Internship	20

CHAPTER IV – RESOURCES

Funds Received from the Government for the financial year 2015-16

	Rupees (in Thousands)
Grant-in-Aid Salary	21275
Grant-in-Aid Non Salary	8329
Total	29604

Total Amount - Rs. 29604



CHAPTER V – ILLUSTRATIVE CASES

1. **Case No.** – 118/2014 (Division Bench at Kolhapur Camp Sitting)

Name of the Deceased: - Mr.Jagdish or Sunny Prakash Powar

Name of the Initiating Authority: -

- 1) The Superintendent of Police, Kolhapur and
- 2) The Additional Chief Secretary, Mantralaya, Mumbai

Date of Order:- 20th May 2015

Quorum:-

1. Justice Shri S.R. Bannurmath, Hon'ble Chairperson
2. Shri Bhagwant D. More, Hon'ble Member

Nature of Complaint:-The complaint was in relation to the unnatural death of the victim in the custody of Wadgaon Police Station on 23/08.2014.

Action taken by the Commission:-A report was called for from the concerned authority in relation to the death of the victim. The investigating officer of the C.I.D. made the complete investigation and submitted the report before the Commission. The Post Mortem report showed that there were internal injuries to the vital organs caused by the blunt and hard substance. A financial assistance of Rs. 1,87,000/- was given by the Ministry of Social Welfare but the Commission feels it is an inadequate compensation to the family of deceased young man who was hardly about 21 of age.

Decision of the Commission:-

After going through all the reports and final enquiry, the Commission directed the State Government to pay compensation of **Rs. 5,00,000/- (Rs. Five Lacs)** to the family of deceased within 4 weeks from the date of receipt of this order.

2. **Case No.** – 664/2013-14 (Kolhapur Camp Sitting)

Name of the Complainant: - Mr.Shankar Bhimrao Hajare

Name of the Respondent: - The Superintendent of Police, Sangli

Date of Order:- 20th May 2015

Quorum:-

Justice Shri S.R. Bannurmath, Hon'ble Chairperson

Nature of Complaint:- Based on the complaint regarding alleged misbehavior and lodging a false complaint against the victim by the Police, this case was registered.

Action taken by the Commission:- A report from the concerned authority was called for and a detailed report was submitted by SDPO at the Commission.

Decision of the Commission:-

The Commission was of the view that there was a clear violation of Human Rights of the Complainant and therefore Commission made the following recommendations:

- a) The concern Superintendent of Police should make thorough enquiry in this regard and take action the erring police officials.
- b) The State is directed to pay compensation of **Rs. 10,000/-** to the complainant for violation of Human Rights.

3. **Case No.** – 3769/2014

Name of the Complainant: - Mr. Tekale Dilip Sakharam

Name of the Respondent: -

- 1) The Chief Secretary, Mantralaya, Mumbai
- 2) The Addl. Chief Secretary, Home Department, Mantralaya, Mumbai

Date of Order:- 27th April 2015

Quorum:-

Justice Shri S.R. Bannurmath, Hon'ble Chairperson

Nature of Complaint:- The complaint was regarding amputation of leg of the victim due to negligence and mishandling of firearm by the Police official. It was submitted that in spite of his repeated requests to the concerned Police officials as well as to the Government, neither compensation was paid nor any job on compassionate ground has been provided.

Action taken by the Commission:- On receipt of the complaint report from the concerned authorities was called for. The Collector, Parbhani and Spl. Inspector General of Police Aurangabad Division by detailed report submitted that they have recommended to the Government to provide a compassionate appointment to the victim as he has to suffer because of accidental / negligence discharge of the fire arm by a Police staff that too in a public place. However, it was brought to the notice of the Commission that inspite of repeated communication and reminders the Government is not taking any action.

Initially, the Commission called for a report from the State and since there was no response whatsoever the Commission directed the Chief Secretary and Additional Chief Secretary to be present.

Decision of the Commission:-

Based on the various reports and enquiry conducted by the Commission, it passed the following directions:

- a) The State to pay a compensation of **Rs. 2,00,000/- (Rs. Two Lacs)** to the victim within two months from the date of receipt of this order.
- b) The State is directed to arrange for an artificial leg (Jaipur Foot) to the victim at the earliest depending upon the medical advice (to be obtained by the State).

4. **Case No.** – 9/2014 (Suo Moto)

Name of the Complainant: - Suo Moto

Name of the Respondents: -

- a) The Superintendent of Police, Thane;
- b) The Commissioner, Tribal Development, Nasik
- c) The Addl. Commissioner, Tribal Development, Nasik
- d) The Principal, English Medium Government Ashram School, Shahpur
- e) The Project Officer, Ekatmik Adivasi VibhagPrakalp, Shahpur

Date of Order:- 6th June 2015

Quorum:-

Justice Shri S.R. Bannurmath, Hon'ble Chairperson

Nature of Complaint:- Based on the newspaper report in 'Maharashtra Times' dated 22.08.2014 that a student by name SadanandBhagwanGund studying in Adivasi Ashram School at Savroli in Mukhada had died due to alleged negligence on the part of the school officials, the present suomotu case was registered by the Commission.

Action taken by the Commission:- A report was called for by the Commission from various concerned authorities. After receipt of the reports from the concerned, at the outset it is to be noted that the cause of death of the deceased was due to severe illness. The Commission after going through these reports felt that the due to negligence of the school authorities, the deceased student didn't get the proper medical treatment on time.

Decision of the Commission:-

The Commission made the following recommendations based on the various reports:

- a) Though SadanandBhagwanGund died due to ill health, since Commission finds contributory negligence on the part of School Authorities in not getting him immediate and proper treatment, and the concerned Department has contributed in negligence by not taking proper precaution the Commission deems it proper to award an interim relief compensation of **Rs. 1,00,000/- (Rs. One Lac)** to the parents of deceased to be paid by the State in four weeks.
- b) The State Government shall implement the Tribal Development Project/Scheme for the welfare of Tribals in general and in particular to the Tribal Children Education and Health programme in its true letter and spirit.
- c) Taking into consideration the inadequacy of medical units, the State is directed to provide sufficient number of Doctors especially Pediatricians and Staff to look after the health of tribals in general and Ashram School children in particular. For every tribal Taluka where the Ashram Schools Hostels are located, already identified by the State there shall be sufficient number of medical staff (preferably one qualified Doctor (Pediatrician) one general physician and nursing staff) and they shall be provided enough medicines and basic tools commonly required. These medical staffs are to be in exclusive services for the welfare of the tribals and their children.
- d) Taking into consideration the geographical situation and difficult terrain to access the medical facilities immediately, the State Government shall provide well equipped ambulances to each project area (3 – 5 Talukas).
- e) As per the direction of the State each tribal child, studying and residing in the Ashram Schools is to be given medical check-up once in a quarter of an year or at least twice a year and proper records of the same to be maintained.
- f) The State shall establish necessary pathological laboratories in every project area.
- g) Every Doctor and medical staff requires to be sensitized about the importance of medical check-up of each child in the custody of the Ashram Schools.
- h) The School officials like Head Master and the Teachers and other staff are required to be sensitized for taking proper care of the children studying and staying in the Ashram Schools.
- i) The Project Officer be directed to regularly visit preferably once in a month along with the medical team and maintain a health report of each child staying in the Ashram Residential Schools.

5. **Case No.** – 2799/2011-12

Name of the Complainant: - RavindraLatnekar

Name of the Respondent:- SP, Pune (Rural)

Date of Order:- 08th May 2015

Quorum:- Shri Bhagwant D. More, Hon'ble Member

Decision of the Commission:-

On detailed enquiry, the Commission made the following recommendations:-

- a) Compensation of Rs.5,000/- to be given to the complainant by the State within 4 weeks

CHAPTER VI – COMPLIANCE AND DENIAL OF RECOMMENDATIONS BY THE GOVERNMENT

Order Date	Recommendations	Compliance Report/letters received
03.03.2015	SDO, Buldhana has ordered the concerned to pay Rs.2,31,000/- in the Govt. treasury, Collector, should take necessary corrective action	Received letter Dated:- 15.05.2015 from collector, Buldhana stating that DE was held against the Talathi and two increment have been stopped.
27.04.2015	State to pay Rs. 2,00,000/- within two months and to arrange for an artificial leg to the victim at the earliest depending upon the medical advice.	COMPENSATION TO BE PAID TO THE COMPLAINANT: - Received order copy from SP, Parbhani regarding appointment of the complainant as staff under Class 4 grade. - Received letter from Home Dept. along with the copy of the letter dated: 01.08.2015 in which it is stated that the amount of Rs.2 Lacs has been transferred from the CM Fund in the SBI account of the Collector, Parbhani to distribute it to the complainant. - STATE TO ARRANGE FOR ARTIFICIAL LEG: Received letters dated: 20.07.2015 & 29.07.2015 from Collector, Parbhani and Social Welfare Dept, Parbhani stating that necessary steps are taken for providing artificial leg to the victim.
20.05.2015	State to sensitize the police personnel with regards to human rights violation in police custody and State to pay Rs.5 lacs to the family of deceased within 4 weeks as compensation.	Received letter dated: 21.11.2015 of Home Dept. along with GR dated: 21.11.2015 regarding release of compensatory amount of Rs.5 lacs to the family of deceased as well as initiating DE against the concerned police personnel.
15.07.2014	Women & Child Welfare Dept. to furnish detailed data of number of child welfare institutions in each district of State along with sanctioned strength, medical facilities available. To provide separate staff in the clinics in the five institutions of Mankhurd. To maintain the cleanliness necessary cleaning staff for the	- Received information dated: 23.09.2014 from District Women & Child Dev. Dept. Officer Sangli regarding facilities provided in the Children Homes, Sangli. - Received letter dated: 29.04.2015 along with the detail reports showing the detailed data of number of child welfare institutions in each district of State from Commissioner, Women & Child Welfare Dept. complying all the

	clinics to be provided. Necessary equipment's and Furniture like bed, refrigerator to be provided to each of these clinics. State to make immediate arrangement of establishing a clinic with sufficient staff at Chembur Children Home, apart from the other requirements	recommendations of the Commission.
17.12.2014	Action to be taken against the defaulter who failed to keep proper visit and maintenance of the water supply to the common people by taking proper domestic enquiry at the fairly senior level.	Received Letter dated: 03.09.2015 from Dy. Law Officer along with Affidavit of Sub Engineer (Water Works) and report dated: 23.06.2015 of Add. Mun. Comm. (Projects) regarding necessary action taken by BMC in the case.
21.01.2014	State & Home should issue proper guidelines for the police in the light of the guidelines issued by the Apex Court in D.K Basu and other cases. State to pay Rs. 50,000/- as compensation to the complainant	- COMPENSATION OF RS. 50,000/- Received fax dated: 19.03.2014 from SP, Beed stating that the letter for sanctioning the amount of Rs.50,000/- is being given to the Home Dept. - Dept. regarding releasing the compensation amount of Rs. 50,000/- at the earliest. - Received letter dated:13.08.2014 along with GR dated: 03.07.2014 from Home Department sanctioning the compensatory amount of Rs.50,000/- to the complainant. - Received copy of letter dated:24.09.2014 from SP, Beed addressed to SP Jalna for making recovery of Rs.50,000/- from API Shri Gawhane. - Received letter dated:12.05.2015 along with salary slip of Shri Gawhane showing deduction of Rs. 5,000/- as first instalment.
05.05.2014	The state shall ensure that whenever a complaint of cognizable crime is reported, without lapse of any time the station house officer shall register the case, draw FIR and take up investigation and file charge sheet within minimum reasonable time. To take immediate action against the erring police official Pay Rs.1,00,000/- as interim compensation to the complainant.	- Received letter dated:09.06.2014 along with order copy dated:01.04.2014 stating that 3 years increment of Police Constable Shri Pansare has been stopped. - Received letter dated: 14.09.2015 from Home Dept. along with GR dated:14.09.2015 regarding sanction of compensatory amount of Rs.1,00,000/- to the complainant.

finalized on 24.12.2014	Disciplinary action should be taken to hold an enquiry against the concerned who failed to discharge their duties in this instant case. The transaction of allotting land to KisanKotwanishould be enquired into.	Received letter dated: 05.11.2015 from Rev. & Forest Dept. in which it is stated that the land has been transferred in the name of the complainant and necessary directions are given to the Tahsildar, Arvi for holding DE against the concerned officers.
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Order Date	Recommendations	Denial Report
22.05.2014	State to implement the guidelines for the police issued by the Apex Court in D. K. Basu and other cases. Sensitize the police personnel below the rank of Superintendent Pay Rs.10,000/- as interim compensation to the complainant.	- Received copy of report dated: 30.06.2014 from Dy.CP Zone 5 addressed to ACS, Home Dept., stating that after due inquiry it was revealed that the complainant has filed false compliant against the police personnel. Dy.CP has also sought guidance regarding the compensation amount. - Received letter dated: 31.08.2015 from Home Department denying the recommendation of Rs.10,000/- to be paid to the complainant on the ground that the police officers had done that duty.

