CHAPTER - V
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I. Introduction

The National Human Rights Commission of India (NHRC) was established on October 12, 1993 under the Protection of Human Rights Act 1993, and is in conformity with the Paris Principles adopted at the First International Workshop on National Institutions for Protection and Promotion of Human Rights held in Paris in October 1991. It was endorsed by the General Assembly of the United Nations in Resolution 48/134 of December 20, 1993. The Commission is an embodiment of India's concern for the promotion and protection of human rights.

The Protection of Human Rights Act 1993 lays down the high qualifications that the members are required to have, to be eligible to be appointed to the Commission. Section 3 of the Act lays down that the Commission shall consist of eight members and will be headed by a Chairman who has been the former Chief Justice of the Supreme Court. The other members of the Commission may be a sitting or retired judge of the Supreme Court, serving or retired Chief Justice of High Courts, two prominent persons having knowledge or practical experience in the sphere of human rights and the Chairpersons of the National Commission for Minorities, the Schedule Caste and Schedule Tribes and Women.
Figure -5.1 (Composition of NHRC)

II. Appointment of Members

The Chairperson and the members of the Commission are appointed by the President of India, on the recommendations of a Committee consisting of as below

Figure – 5.2 (Selection Committee of Members of NHRC)
The high level and politically balanced Committee together with the statutory requirements relating to the qualifications of the Chairperson and members of the Commission, invest the Commission with a day high degree of credibility.

The appointment procedure of a member of National Human Rights Commission of India is very comprehensive. The high level committee is solely responsible for independency of the Commission which is the key feature of the Commission. It has been found that the Commission consists of various members; however, a group of section of society is deprived from representation, particularly the members of NGOs and Media.

III. Structure of the Commission

The Chief Executive Officer of the Commission is the Secretary General, an officer of the rank of Secretary to the Government of India. The Secretariat of the Commission works under the general supervision of the Secretary General.

There are six divisions in the Commission. Though each of these have been entrusted specific tasks, the divisions work in close consultation. The divisions are as given below

**Figure – 5.3 (Division of NHRC)**
A. Administrative Division

The Administration Division is headed by a Joint Secretary, assisted by a Director, Under Secretaries, Section Officers and other Secretarial Staff, and functions under the overall guidance of the Secretary General. This Division looks after the administrative, personnel, establishment and cadre matters of the staff and officers of the Commission.

The Administration Branch has three sub branches as shown below

Figure – 5.4 (Administrative Division of NHRC)

1. Account Branch

The Account Branch, functioning under the overall guidance of the Joint Secretary, consists of a Senior Account Officer, Assistant Account Officers, a Drawing and Disbursing Officer and other staff.

2. The General Section

The General Section of the division takes care of housekeeping jobs. The section mainly deals with procurement of stores, maintenance of office buildings, repair and maintenance of all office equipment, machinery and furniture. It also handles purchase, maintenance and provision of office vehicles or hired vehicles to the Chairperson, members and Senior Officers of the Commission.

3. The Hindi Section

The Hindi Section of the Commission arranges for the translation of complaints from Hindi and other languages into English. It also undertakes translation work of the Commission, including the translation of the monthly Newsletters, Annual Reports and other publications of the Commission. An annual Hindi journal named, Manava Adhikar – Nai Dishayen is also published in Hindi.
B. Law Division

This division is headed by Registrar (Law). The post has a scale of Additional Secretary to the Government of India. The Division services the Commission in the receipt and disposal of complaints relating to human rights violation. The Registrar (Law) is assisted by a Joint Registrar, Deputy Registrars, Assistant Registrars and others. Besides, there are four Presenting Officers, coming from the subordinate judiciary, who assist the Commission in dealing with the complaint cases.¹

All the communications in writing (by whatsoever mode they are received) addressed to the Commission, its Chairperson, Members or other officers of the Commission, either by name or designation, shall be received at the Receipt Counter of the Commission.² Those communications which are addressed by name to the Chairperson, Members and other officers of the Commission shall be entered in separate Peon Books and delivered forthwith under acknowledgement. Unless otherwise directed, communications received by the Chairperson, Members and other officers of the Communication when marked to the Law Division, shall be dealt with in accordance with the procedure provided by the National Human Rights Commission (Procedure) Regulation 1997.

The Dak shall be opened under the direct supervision of the Section Officer in-charge of the Receipt and Dispatch Section, who shall get the same sorted out section wise, diarized in a register containing particulars such as, date of receipt, diary number, sender’s name and state and transmitted under acknowledgement to the concerned sections in the Law Division and to the respective heads of other divisions. Separate transmission registers shall be maintained for each section in the Law Division and each of the other division.³

Immediately on receipt of the Dak, the Section Officer in-charge of each section in the Law Division shall sort out the fresh complaints and place them forthwith for scrutiny before the respective Assistant Registrar(s) who are put in
charge of the respective sections in that Division in accordance with the special or general order of allocation as may be made by the Registrar. Complaints and other communication requiring urgent attention shall, however, be placed forthwith before the Registrar who shall give such directions as many be necessary. All other communications relating to this section shall be processed and appropriately dealt with. All complaints and other communications which are not in English and which are required to be placed before the communication shall be got translated into English without most expedition. Provided that only gist of the complaint is not entertain able or is of an urgent nature, requiring immediate attention.

On completion of scrutiny at each complaint, the Assistant Registrar shall fill up Form No. 1 in case of complaints, which are prima facie entertainable. The Assistant Registrar shall fill up Form No. 27 if the complaint is prima facie not entertainable for any of the reasons below

(i) Illegible;
(ii) Vague, anonymous or pseudonymous;
(iii) Trivial or frivolous in nature;
(iv) Barred under Section 36(1) of the Act;
(v) Barred under Section 36(2) of the Act;
(vi) Allegation is not against any public servant;
(vii) The issue raised relates to civil dispute, such as property rights, and contractual obligations;
(viii) The issue raised relates to services matters;
(ix) The issue raised relates to labour or industrial disputes;
(x) Allegations do not make out any specific violation of human rights;
(xi) Matter is sub-judice before a Court or Tribunal;
(xii) Matter is covered by a judicial verdict or decision of the Commission;
(xiii) The matter is outside the purview of the Commission on any other grounds.
The Assistant Registrar shall then send the complaint with the scrutiny report appended thereof to the section concerned for registration. If however, the petition or communication is found to be not a complaint falling under Section 12(a) of the Act but relates to any other clause in Section 12, the same shall be placed forthwith before the Registrar, who shall cause it to be transmitted under acknowledgement to the Secretary General, who shall place it with a brief note before the full Commission as early as possible.

Subject wise classification of the complaints shall be made as per list annexed to those regulations. Having regard to the subject matter of the complaints received, the list may be modified or new entries added thereto from time to time as per the directions of the Chairperson.

Registration

A common register shall be maintained in the Law Division for entering in serial order the case number with State Code and year of registration, the corresponding diary number and the state to which the incident relates in respect of each complaint to be registered. Immediately on completion of the scrutiny, entry shall be made in the common register and the case number assigned to the complaint along with State Code shall be entered at the top right-hand corner of the complaint in red ink and also in the space provided in the Scrutiny Report. File cover shall be got printed as given in Form No.3.

Records relating to each complaint shall be kept in a separate file cover arranging them chronologically in the following order:

(i) Index in Form No. 4;
(ii) Order Sheet in Form No. 5;
(iii) Scrutiny Report in Form No. 1 or Form No. 2 as the case may be;
(iv) Complaint with annexure, if any.
The case file shall then be transmitted forthwith to the officer-in-charge of the Listing Section for placing the matter before the Commission.

All complaints newly registered shall be placed before the Commission for preliminary consultation as expeditiously as possible, but not later than as seven days (7) from the date of its receipt. Provided that the complaints which require urgent consideration shall be placed before the Commission, as far as possible within 24 hours of its receipt.¹³

**Constitution of the Bench**

Subject to such special or general order of the Chairperson, all complaints shall be initially dealt with by a Single Bench of the Commission. If the Single Bench dealing with the case, having regard to the importance of the issues involved, is of the opinion that the case should be considered by a Division Bench or Full Bench, he or she may refer the case to a Division Bench or Full Bench. On receipt of such reference, the case shall be assigned to the Division Bench or Full Bench constituted for that purpose. However, the Chairperson may, having regard to importance of the matter, place the case before a larger Bench.¹⁴

When the case is referred to a Division Bench or Full Bench, the Section Officer concerned shall get prepared the requisite number of copies of the case file for the use of all the members of the Bench.¹⁵

**Preparation of Cause List**

The Cause List shall be prepared categorizing cases under the following heads —

1. Re-Entertainability;
2. For Admission;
3. For directions (briefly indicate below the case number, nature of direction sought);
4. For Final Disposal;
5. Compliance Report cases.
**Review Applications**

The complaints, which are prima facie not maintainable, shall be placed in a separate bundle with the Cause List under the head of review applications. Case for Directions shall include, inter alia, the following where

(i) Information or report has not been received within the time specified; or
(ii) only interim report or some information is received;
(iii) report or information has not been received from all authorities;
(iv) directions for use of summons for production of documents or to adduce evidence is required to be issued; or
(v) application seeking interim directions such as clubbing of similar matter, extension of time and intervention by third party is reviewed; or and
(vi) all other matters of interlocutory nature.

The number of cases to be included in the Cause List to be placed before each Bench(s) per day shall be fixed according to the directions that may be given by Chairperson from time to time. The case files in respect of the cases shown in the Cause List shall ordinarily be placed two days in advance before the Bench(s) along with a copy of the Cause List.¹⁶

Each member shall be assisted by a Presenting Officer. When the member takes up for consideration the cases assigned to him or her for final disposal, it shall be the duty of the Presenting Officer to study and present the cases and render such other assistance, as may be required, for consideration and disposal of the case. If, however, the Commission sits in Division Bench or Full Bench shall be assisted by the Presenting Officer attached to the members constituting the Bench as may be directed by that Bench.¹⁷
When the members hold sittings in Court Hall, the Court Master assigned by the Registrar shall discharge such functions as are normally performed by Court Officers in the Supreme Court or High Courts and also discharge such other functions as may be assigned to him by the Chairperson.\textsuperscript{18}

If on consideration of the complaint the Commission dismisses the complaint in limini, the said order shall be communicated to the complainant in the format given in the Form No. 6\textsuperscript{19}

If on consideration of the complaint or suo motu the Commission admits or takes cognizance and directs issue of notice to any authority calling upon it to furnish information or report, a notice shall be issued, enclosing a copy of the complaint there to. Such notice shall be signed by the Assistant Registrar in the given format of Form No 7\textsuperscript{20}

If no time is fixed by the Commission for the return of notice or furnishing of information or report the time shall be thirty days from the date of service of the notice. If however, the Commission issues any other direction or order, action shall forthwith be taken accordingly. If the report or information is not received from the concerned authority within the given time, or received late or not complete in all respects, the case shall be placed before the Commission for further direction.\textsuperscript{21}

Ordinarily, order of the Commission shall be recorded in the order sheet; provided that the orders which are lengthy shall be recorded on separate sheets and appended to the order sheet. The Presenting Officer attached to the member concerned shall make entry in the relevant column of the order sheet mentioning the page numbers and the date of the order. The order shall then be fed into the commons programme.

In cases where urgent action is required to be taken pursuant to the order or proceeding issued by the Commission, the section concerned shall forthwith send the file to the Registrar or Joint Registrar who shall give suitable instructions in regard to mode of communication by Telephone or Fax or Speed Post and
Telegram and transmit the records to the concerned section for taking further action. A register shall be maintained for each state and the relevant information entered in the respective columns therein as and when the information becomes available.

On receipt of the information or report called for a detailed note in the form of a synopsis shall be prepared by the Joint Registrar or Deputy Registrar or Presenting Officer in the format given in Form No. 9 whereupon the case shall be treated as ready for being placed before the Commission for final disposal. When the Commission, upon consideration of the information or report finally disposes of the case without any recommendations, the case shall be treated as closed.

**Issuing of Summons**

Whenever the Commission directs to summon

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

(ii) any other person who, in the opinion of the Commission, should be heard for appropriate disposal of the matter before it;

(iii) any other person to cause production of records required by the Commission;

(iv) any person to be examined as witness;

(v) any person whose conduct is inquired into by it, or

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

A summon indicating the purpose of summoning such person shall be issued in Form No. 10.
The cash in which summon has been issued for personal appearance of a person, shall be placed before the Commission on the date shown in the summon for such personal appearance.27

The Registrar shall cause to prepare the following statements.

(i) Weekly statement in a stipulated format. (Format No. 11)28

(ii) State wise statement in stipulated format. (Format No. 12)29

(iii) State wise monthly statement in stipulated format (Form No. 13)30

The Registrar shall review periodically the allocation of work in the Law Division to ensure equitable distribution of work in each section in that Division.31

C. Training Division

The Training Division has been created to disseminate information and focus attention on sensitizing various agencies and NGOs, civil society to heighten respect for human rights by organizing human rights training programmes.

The division is headed by a Chief Coordinator, who is Joint Secretary rank officer. The Chief Coordinator is assisted by a senior research officer and other secretariat staff. Under the Protection of Human Rights Act 1993, the National Human Rights Commission of India is mandated to spread human rights literacy among various sections of society and promote awareness of the safeguards available for the publications, media, seminars and training programmes.32 Again under the Act, the Commission is mandated to encourage the efforts of non-governmental organizations (NGOs) and institutions working in the field of human rights.33

To fulfill the mandates of the Protection of Human Rights Act 1993, an independent Training Division was established in September 2003. The Training Division has been imparting training to the officials of the Union or State Governments, field functionaries and representatives of credible NGOs, students or faculties of various Universities and police personals through the Administrative
Training Institutions, Police Training Institutions, NGOs, State Human Rights Commissions and Universities. The methodology adopted is lecture, group discussion, panel discussion and films. The main purposes of creation of an independent Training Division are –

- to impart training programme for different grades of officers or staff for sensitizing them towards various human rights issues as well as the rights based approach for enabling them to effectively undertake required action in the performance of their duties.

- bringing about the correct attitudinal orientation among participants to faster among them a positive and innovative outlook for prevention of human rights violations.

- to increase knowledge and awareness of various human rights grievances and available redressal to prevent violation of human rights by trained persons.

- to create awareness of their human rights among the public, in particular the vulnerable groups.

- to conduct training of trainers (TOT) programmes for developing a large number of training resource persons in every state.

There are three types of training programmes funded by National Human Rights Commission. These are as follow-

(1) BASIC – One day course for beginners

(2) ADVANCED – Two day courses for senior personnel or individuals working in areas concerned with human rights.

(3) The Training of Trainers (TOT) – Three day course for training resource persons who can further train others in human rights issues and thereby increase the number of trained human rights personnel.
D. The Policy Research Projects and Programmes Division

Whenever the National Human Rights Commission, on the basis of its hearings, deliberations or otherwise, arrives at a conclusion that a particular subject is of generic importance, it is converted into a project or programme to be dealt with by the Policy Research Projects and Programmes Division.

The Division also undertakes and promotes research in human rights and organizes seminars, workshops and conferences on pertinent issues. The Policy Research Projects and Programmes Division is headed by the Joint Secretary and consists of two Directors, a Senior Research Officer and Secretariat Staff.

E. The Investigation Division

When the Commission requires an independent inquiry to be conducted, it is affected through the Investigation Division, which is headed by an officer of the rank of Director General of Police. He is assisted by a Deputy Inspector General of Police, Senior Superintendent of Police, Inspector of Police and Constables.

The Division also assists the Commission in examining complaints, in scrutinizing reports received from the police and other investigating agencies and in looking into reports of custodial violence or other misdemeanors. In addition, the Investigation Division analyses the intimations and further reports from the state authorities regarding death in police and judicial custody, encounter death and advising the Commission. The Division is also assisting the Training Division in spreading human rights literacy as envisaged in the Protection of Human Rights Act 1993.

Whenever the Commission orders investigation to be undertaken by its Investigation Division or by any other investigating agencies of the Union or State Governments as provided Section 14 of the Protection of Human Rights Act, a copy of such order along with copies of papers relevant thereto shall be furnished forthwith to such Division or Agency calling upon it to conduct the investigation and submit its report within the time specified in the order and if no time is
specified, within two weeks from date of the order. If no such report is received within the time given, the matter shall be placed before the Commission forthwith for further directions.

F. The Information and Public Relations Division

The Information and Public Relations Division disseminates information relating to activities of the Commission, through the print and electronic media, and is headed by an Information and Public Relations Officer, who also functions as the editor of the monthly Human Rights Newsletter.

This Division is responsible for the website and publications of the Commission. The Division also has an Assistant Information Officer. A Public Information Officer has also been appointed for the purpose of facilitating information under the Right of Information Act. The appellate authority is the Joint Secretary.

In addition, there are sub agencies, bodies of the National Human Rights Commission through which it works. These agencies or functionaries are as –

1. Special Rapporteurs

Special Rapporteurs are very senior officers who, prior to their retirement, have served as Secretaries to the Government of India or Director General of Police or have done exemplary service in human rights related field. They are either given a subject or a group of subjects, to deal with, such as Bonded Labour, Child Labour, Custodial Justice, Dalit Issues, and Disability, or have territorial jurisdictions.

2. Core Groups and Expert Groups

Core Group or Experts Groups consist of very eminent persons, or respective bodies, in their respective fields in the country, who voluntarily agree to serve, in an honorary capacity, as members of such groups. Presently there are–
(a) Core Group on Disability

The National Human Rights Commission of India gives a boost to efforts of NGOs working in the field of disability by constituting a core group on disability. It was an emotional victory when the NHRC passed an order constituting a core group to serve as a monitoring mechanism for consultation with NGOs. The order envisages utilizing the knowledge, experience and expertise of credible NGOs working in the field of human rights. The order was passed in accordance with Section 12(1) of the Protection of Human Rights Act 1993. The Commission has set up a core group under the Chairmanship of Sri Chaman Lal, Special Rapporteur, NHRC with representatives of various NGOs, including NCPEDP. The Core Group will review the progress of consultations and serve as a monitoring mechanism. The terms of reference of the core group shall be to

(i) identify NGOs engaged in the field of human rights having a good track record and to build a database of NGOs.

(ii) identify the broad areas of cooperation between NHRC and the selected NGOs from different regions.

(iii) identify important human rights issues that could be jointly taken with the NGOs after considering the suggestions and proposals

(iv) recognizing the need for special attention to issues relating to disabilities, the NHRC has also constituted a core group on disability issues.

(b) Core Group on Elderly Persons

The National Human Rights Commission of India has established a Core Group on the Protection and Welfare of Elderly Persons. The terms of reference of
the Core Group include review of the existing government policies, law, rules and order, and other material from human rights perspective and making an assessment of current status of enforcement of the rights of the elderly in different states and union territories in India. The thirteen (13) members Core Group will also identify 'voids and gaps', in the policy frame work for implementation and suggest measures to fill the same. It will also identify 'important' human rights issues concerning the elderly and suggest appropriate measures for better protection of their rights. On the basis of its findings, the core group will suggest plan of action for enforcement of the rights of elderly person. The Core Group comprises of representatives of leading NGOs, hospitals, universities, research institutions and societies working for the welfare of senior citizens in the country.39

(c) Core Group on Right to Food

The National Human Rights Commission of India has felt the need to formulate a programme of action for making rights to food a reality in the country. With this in view, a meeting was organized, with leading experts on the subject, in January, 2004 to discuss issues relating to 'Right to Food'. The Commission has approved the constitution of a Core Group on Right to Food, that can advise on issues referred to it and also suggest appropriate programmes, which can be undertaken by the Commission.40

(d) Core Group Rights to Disabled

The National Human Rights Commission of India is deeply concerned about the fact that people with disabilities face various forms of discrimination, social exclusion and marginalization. The Commission has therefore taken several initiatives to protect the rights of the disabled. Notably, the National Human Rights Commission of India has been redressing individual complaints from NGOs and others; the Commission reviewed relevant legislations and made recommendations for improvements thereon; it has successfully championed the need to enumerate the disabled in census 2001. The Commission has been advocating the need for a
comprehensive and integral International Convention on the Protection and Promotion of the Rights of Persons with Disabilities. For these purpose the Commission has constituted a Core Group on Rights of Disable Persons.⁴¹

(e) Right to Health

For the National Human Rights Commission of India it has been important to link the issue of health to that of human rights. When linked together, more can be done to advance human well-being than when health and human rights are considered in isolation. The Commission constituted a Core Advisory Group on Health, comprising of eminent medical experts with a request to prepare a plan of action for systematic improvements in the health delivery systems of the country. The Commission organized three major national consultations on maternal anemia, human rights and HIV/AIDS, and access to healthcare. Based on these consultations, detailed recommendations have been sent to the concerned authorities. Furthermore, the Commission has also been working on issues like sub-standard drugs and medical devices, illegal trade in human organs, emergency medical care, and fluorosis. In partnership with Jan Swasthya Abhiyan, between July to December 2004, the Commission has been organizing five regional and one national public hearing on access to healthcare.⁴²

The National Human Rights Commission is well constructed. The Commission works with these sub divisions. The six divisions are responsible for smooth functioning of the Commission. It has been observed that out of six divisions, the Law Division is most vital organ of the Commission. The Law Division receives the complaints, simplifies and arranges the complaints systematically and ultimately prepares for final settlement. The other divisions like Training and Publication are also vital because these are engaged in spreading and promoting human rights literacy. The Investigation Division is however, found problematic, because for investigation of a complaint, the National Human Rights Commission of India has to wait for government due to not having its own
investigating team. In addition, it has been found that the Core and Expert Groups of the Commission are very effective in promoting and protecting human rights in India. However there is a dire need to have better coordination among the Core Groups so that the National Human Rights Commission of India can effectively protect and promote human rights in India.

IV. Conclusion

The jurisdiction of National Human Rights Commission is very comprehensive, covering all parts of India. To work effectively, the Commission needs various wings or divisions. No doubt the existing divisions of the Commission are capable of handling the workload of the Commission. However, there is a dire need to set up coordination among different divisions so that the National Human Rights Commission works as a team and stand up on the hopes and aspirations of the people of India.
References

3. ibid.
5. ibid.
6. Appendix I.
7. Appendix II.
10. Appendix III.
11. Appendix IV.
12. Appendix V.
15. Section 16(b) of the NHRC (Procedure) Regulations, 1997.
19. Appendix VI.
20. Appendix VII.
23. Appendix VIII.
24. Appendix IX.
26. Appendix X.
28. Appendix XI.
29. Appendix XII.
30. Appendix XIII.
33. ibid, at pp2.
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35. ibid.
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