CHAPTER –III
ROLE OF NATIONAL HUMAN RIGHT COMMISSION
IN ADMINISTRATION OF CRIMINAL JUSTICE

A) Introduction

On 10th Dec. 1948, UN adopted the Universal Declaration of Human Rights and subsequently adopted two more covenants (one on Economic, Social and Cultural Rights and Other on Civil and Political Rights) on 16th Dec 1966 and they came into force on 3rd Jan 1976 and 23rd march 1976 respectively. Both the covenants were binding on the rectifying states. Another major development occurred in Sep.1978 when Commission on Human Rights organized a seminar in Geneva where a set of guidelines were evolved regarding the functions of National Human Rights Institutions (NHRIs) these guidelines were endorsed by the UN General Assembly. It created a lot of pressure on the member state to constitute NHRIs.¹

Efforts were made for the creation of a national institution. But all these attempts went in vain. States paid little heed towards them. Their attitude towards the creation of the national institution was not encouraging, perhaps in view of the fear that such an institution may condemn the action of the State’s executive and judiciary if the occasion would demand.

On June 21, 1977 Shobha Rai and Shanki Rai (two agriculturist workers of village, Shaira, Sitamadi district) were arrested by the police. They were brought to the local landlord’s house and shot dead. On July 22, 1977 Suresh Yadav, a poor peasant, died from torture in the lock-up of a sub urban police station of Monghyr. On 15 October 1977, police opened fire on a group of villagers at Nawada when they protested against the misbehavior of a police party. On October 29, 1977 the police opened fire at Teenphar railway station thereby injured two persons. Between December 12th and 14th a number of policemen lathi-charged the students who were demonstrating in Patna for educational reform. On 3rd March 1978, police brutally lathi-charged a demonstration of backward classes in front of the Assembly House

in Patna. On 31 March 1978, police opened fire without warning in Raghunathpur Bazaar, Bhojpur District, killing four persons on the spot.²

News published in newspaper, according to which ‘Young boys of 10-14 year’s were supplied to convicts for their delectation and a boy named Munna was in agony because’ after the way he was used, he was unable to sit. The helpless boy gives the description of police torture in a telling manner:

“I was taken Baz mandi police station and beaten up. My feet were swollen. Then they put bandage around my forehead and passed electric shocks through it³.”

On July 13, 1991 in Pilibhit district of U.P 10 Sikh pilgrims were killed by U.P police in false encounters. The Government conceded the demand of agitated members in the Lok Sabha to send a team of the house to enquire into these killings.⁴

In early 1990s India felt the need of establishing a Commission as a positive response to the criticisms of the foreign Governments in the context of political unrest and violence in Punjab, Jammu & Kashmir, North-East and Andhra Pradesh. In addition to the pressure from the foreign countries, pressure was added from the domestic front as well for the creation of a National Human Rights Commission, because of the awareness among the people for protection of human rights. All this led the Government to decide to enact a law to establish a Human Rights Commission. Government’s proposal to establish the commission was of course sudden and without due deliberations.

The world conference on Human Rights in 1993 realizing the importance of such an institution or commission stated that, ‘the World Conference on Human Rights urges Governments to strengthen national structures, institutions and organs of society which play a role in promoting and safeguarding human rights.’

The Human Rights Commissions Bill was introduced in the Lok Sabha on May 14, 1992. The Bill was referred to the Standing Committee of the Parliament on Home Affairs. However, urgency of the Commission arose in view of the pressure from the foreign countries and from the domestic front, the President of India on September 27, 1993, promulgated an Ordinance for the creation of a National

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² See, Shegal B.P. Singh , Human Rights In India Problems And Perspectives, 1996, P.225
Commission on Human Rights (NCHR) and Commissions at State level. After having made certain amendments, the protection of Human Rights Bill was passed by both the Houses of the Parliament to replace the Ordinance. The Bill became an Act after it received the assent of the President on January 8, 1994, which is known as the Protection of Human Rights Act. The purpose of the enactment is laid in the Preamble of the Act i.e., to provide for the constitution of a National Human Rights Commission, State Human Rights Commissions in States and Human Rights Court for better protection of Human Rights and for matters connected therewith or incidental thereto.

Section 2(d) of the Act defined the expression human rights by stating that human rights means the rights relating to life, liberty, equality and dignity of the individuals guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India. The above definition limits the scope of the functioning of NHRC. India ratified the two Covenants-International Covenant on Civil and Political Rights and the Covenant enforceable as law before the Indian Courts. The references to these covenants in the Act are purely cosmetic. The decisive words are “and enforceable by Courts in India”. These words limit human rights strictly to the fundamental rights embodied in Part III of the Constitution which are enforceable by the Courts in India. The fact is that they are more limited than human rights in the Covenants. Further, the Commission’s mandate does not extend to those human rights which have been recognized in international treaties signed and ratified by India besides the fundamental rights. A pertinent question arises as to why the commission was established for the protection of fundamental rights when they being constitutional rights are enforceable before the Courts. It appears that the purpose of the enactment was to provide better protection of passing of the Bill there was growing concern in the country and abroad about issues relating to human rights. Having regard to this, Government was reviewing the existing laws, procedures and system of administration of justice with a view to bring about greater accountability and transparency in them and devising efficient and effective methods of dealing with the situation. It was thought that the Commission would provide immense help in this regard. Wide-ranging discussions were held in a number of conferences and seminars after taking into account the views expressed therein, the Bill was brought before the Parliament.

Chapter II to IV of the Act deals with the National Human Rights Commission.

**B) The function of the National Human Rights Commission is to**

1. Inquire suo-moto or on a petition presented to it by a victim or any person on his behalf, into complaint of:-
   
   (a) Violation of human rights or abetment thereof.

   (b) Negligence in the prevention of such violation, by a public servant.

2. Intervene in any proceedings involving any allegation of violation of human rights pending before a court with the approval of such court;

3. Visit under intimation to the State Government, any jail or any other institution under control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, to study the living conditions of the inmates and make recommendations thereon;

4. Review the safeguards provided by or under Constitution or any law for the time being in force for the protection of Human Rights and recommended measures for their effective implementation;

5. Review the factors, including Acts of terrorism, to inhibit the enjoyment of human rights and make recommendations for their effective implementation;

6. Study treaties and other international instruments on human rights and make recommendations for their effective implementation;

7. Undertake and promote research in the field of human rights;

8. Spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publication, media, seminars and other available means;

9. Encourage the efforts of non-governmental organizations and institutions working in the field of human rights;

10. Such other factors as it may consider necessary for the promotion of human rights;
The National Human Rights Commission is required to submit an Annual Report to the Central Government and 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\(^5\). The Central Government or the State Government, as the case may be, is required to lay down the Annual and Special Reports of the National Human Rights Commission in each House of Parliament or the State Legislature respectively along with the memorandum of action taken or proposed to be taken on the recommendations of National Human Rights Commission.\(^6\)

Till 2007-08 that National Human Rights Commission has made fifteen Annual reports. The National Human Rights Commission in its reports has shown deep concern over the increasing incidents of custodial deaths and torture. In pursuance to its Constitution, the National Human Rights Commission has issued instructions to the Chief Secretaries of all States asking them to direct all District Magistrates and Superintendents of Police to report any incident of custodial death or rape directly to Commission within 24 hours of its occurrence. It was emphasized that failure to send such reports, will lead to a presumption by the Commission that an effort was being made to suppress the occurrence.\(^7\)

The Commission has continued to act with determination to end the terrible occurrences of custodial death, rape and torture that have scared the record of the law and order apparatus of our country. The Commission noted that there has been an increase in the number of cases reported regarding instances of custodial deaths. According to the Commission the increase in reported instances of custodial deaths is the result of its repeated instructions that information regarding such tragic occurrences must not be suppressed, but must be reported promptly, investigated and acted upon.

The Commission had suggested several measures to curb the menace. The Commission supported the insertion of Section 114B in Indian Evidence Act, as recommended by the Law Commission in its 113\(^{th}\) Report. Further it also supported the recommendation of the Law Commission for amendment of Section 197 of Code of Criminal Procedure Act, 1973, so as to obviate the necessity of governmental

\(^{5}\) See, Protection of Human Rights Act, 1993, Section 20
\(^{6}\) See, Ibid, Section 28
sanction for the prosecution of a police officer where prima-facie case has been established in an enquiry conducted by a Session Judge. Further the Commission also supported the view of the National Police Commission in its First Report regarding the mandatory enquiry by the Session Judge in each case of custodial death, rape and grievous hurt. In its Annual Report for the year 2001-2002, The National Human Rights Commission expressed deep regret that these recommendations have not yet been considered by the Government even after so many years.

The Commission further welcomed the decision of the Supreme Court in D.K. Basu v. State of West Bengal 8 setting out procedure to be followed by the police in cases of arrest or detention.

The National Human Rights Commission has further supported a series of measures that the Fourth National Police Commission had suggested to check the use of third degree methods by the police.

In its Annual Report for the year 2001-02, the Commission opined that there could be no systematic change in the human rights situation in this country unless those duties are to protect such rights cease to be predators themselves. The Commission said that this observation is especially relevant to the police, the Commission has observed that a majority of complaints that it has received related to the conduct of the police. The Commission said that systematic reform of the police is to be needed. In its Third Annual Report the Commission took the view that the recommendation contained in chapter XV of the Second Report of the Second Police Reforms Commission should be fully implemented.

C) Promoting Human Rights Literacy and Awareness

The Protection of Human Rights Act, 1993, in section 12(h), has expressly mandated the commission to promote human rights awareness and literacy. In a sense, the entire range of the activities of the commission serve this broad, encompassing purpose. The decisions that the commission takes in respect of individual or group complaints, the programmes and projects that it undertakes the seminars and workshops that it holds, the research it generates, its publications and

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8 See, AIR 1999 SC 340, 343
discourses, all aim to create a culture of human rights in the country-an environment
in which rights can be better promoted and protected.⁹


In the memorandum of action taken on the commission’s annual report 2000-
2001, it has been stated that the, National Action Plan for Human Rights Education
has been adopted by academic institutions, bureaucracy and the police. With regard
to the mass awareness programme, the National Action Plan for Human Rights
Education identified Doordarshan and AIR as nodal media units. The commission,
therefore, pursued the matter with the Ministry of Information and Broadcasting to
have follow-up action initiated on the Action Plan. The Secretary General of the
Commission met with the Secretary, the Ministry of Information and Broadcasting
to discuss the ways of promoting human rights awareness through the various media
units working under the Ministry of Information and Broadcasting. A number of
action points emerged for joint co-operation.¹⁰

Section 12 (c) of the Protection of Human Rights Act, 1993, entrusts to the
Commission the responsibility to visit, under intimation to the state government, any
jail or any other institution under the control of the State government, where persons
are detained or lodged for purposes of treatment, reformation or protection, to study
the during conditions of the inmates and make recommendations thereon. In its
Annual Report for the year 1996-97, the National Human Rights Commission said
that it has intensified its effort to improve conditions in all such institutions through
basic reforms in 1996-97. Members of the National Human Rights Commission had
visited jails, lock ups and other centers of detention in different parts of the country.
In its Annual Report for the year 2001-02 the Commission had catalogued certain
shortcomings in the person centers and in its Annual Report for the year 2001-02 it
came to the conclusion that these conditions still prevail.

Despite these recommendations made by National Human Rights
Commission still no step has been taken by the Government to curb custodial
violence. It has been very unfortunate on the part of the State to abdicate from its
duty to act upon these recommendations and make effective statutory provisions to

⁹ See, C.J. Nirmal (ed.), *Human Rights in India-A historical, social and political perspectives*, 2000,
p.295

¹⁰ See, Information available at *Ministry of Home affairs, GOI website*- http://mha.nic.in
curb this inhuman menace. The National Human Rights Commission has been doing its part in dealing with this inhuman crime but the basic problem is that it is only a recommendatory body. Powers must be given to National Human Rights Commission so as to enable it to implement the recommendations it makes.

E) **Watchdog**

The National Human Rights Commission is constituted by the Central Government to exercise the powers conferred upon and to perform the functions assigned to it under the Act. The Commission consists of:-

- A Chairperson who has been the Chief Justice of the Supreme Court;
- One Member who is, or has been, the Judge of the Supreme Court;
- One member, who is, or has been the Chief Justice of a High Court;
- Two Members to be appointed amongst persons having knowledge of, or practical experience in, matters relating to human rights,

Besides these, the Chairpersons of National Commission for the Scheduled Castes and Schedule Tribes and the National Commission for Woman shall be deemed to be Members of the Commission for the discharge of functions specified in clauses (b) to (j) of Section 12.

The Act also makes provision for a Secretary-General who shall be the Chief Executive Officer of the Commission and shall exercise such powers and discharge such functions of the commission as it may delegate to him.

The Headquarter of the National Human Rights Commission (NHRC) is located at Delhi. The Commission may, however, with the previous approval of the Central Government establish offices at other places in India.

The Chairperson and other Members are appointed by the President by warrant under his hand and seal after obtaining the recommendations of committee consisting of:

- Prime Minister-Chairperson
- Speaker of the House of people-Member
- Minister in charge of Ministry of Home Affairs in the Government of India-Member
- Leader of the Opposition in the House of the People –Member

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11 See, The protection of Human Rights Act, 1993, Section 3
13 See, The Protection of Human Rights Act, 1993, Section 4
• Leader of the Opposition in the Council of States- Member
• Deputy Chairman of the Council of States- Member

A sitting Judge of the Supreme Court or sitting Chief Justice of a High Court can be appointed only after consultation with the Chief Justice of India.

It is further provided that no appointment of a Chairperson or a Member shall be invalid by reason of any vacancy in the above Committee headed by the Prime Minister.

F) **Role of Human Right Commission**

The National Human Rights Commission of India has played a very vital and important role in up keeping the faith of a common man in the Criminal Justice System of India.

Some of the notable cases are as under:-

i) **Deaths in Police Custody**

Death of Sher Mohammad in Police custody by torture: Uttar Pradesh 14

The Superintendent of Police, Badaun, Uttar Pradesh on 23 February 1996 informed the Commission about the death of Sher Mohammad s/o Abdul Rashid, an under trial prisoner arrested on 22nd February 1996 in case No. 29/96 u/s 25 of Arms Act and case No. 20/96 u/s 364 IPC by the police. It was showed that the under trial, Sher Mohammad fell ill and died while on the way to the District Hospital, Badaun on 23rd February 1996.

After intervention by the Commission, the post mortem report and the magisterial enquiry report were sent to the Commission. A perusal of the Magisterial Enquiry Report showed that the said under trial prisoner was beaten up by the SHO and died as a result of police torture. A criminal case was registered against the SHO and a charge sheet was filed in court u/s 302/323 IPC.

The Commission agreed with the magisterial inquiry, that it was a case of custodial death which was caused as a result of severe beating of the under trial while in custody of the police. The Commission, therefore, directed the issuance of notice to the Chief Secretary, State Government of U.P. to show-cause why “immediate interim relief” of Rupees One lakh u/s 18(3) of the Protection of Human Rights Act, 1993 not be given to the next of kin of the deceased. However, since no response was received from Chief Secretary to the show cause notice, on further

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14 See, Case No. 8924/95-96/NHRC
consideration of the matter, the Commission on 21st April 2004, directed the State Government of U.P. to pay an interim relief of Rs. 1 lakh to the next of kin of the deceased. The Commission also observed that death in police custody is one of the worst kinds of crimes in a civilized society governed by the rule of law and poses a serious threat to an orderly civilized society. Torture in custody flouts the basic rights of the citizens and is an affront to human dignity. Police excesses and torture in custody of the detainees/ under trial prisoners or suspects tarnishes the image of a civilized nation and it is necessary to take stern measures to check the malady. The National Police Commission in its 4th Report of June 1980, almost a quarter of a century ago, noticed the prevalence of custodial torture and observed that nothing is “so dehumanizing” as the conduct of police in practicing torture of any kind on the person in their custody. The National Human Rights Commission having been constituted under the 1993 Act for better protection of human rights and civil liberties of the citizen has not only the jurisdiction but also an obligation to grant relief in appropriate cases to the victims or the heirs of the victims whose right to life under Article 21 of the Constitution has been flagrantly infringed by the State functionaries by calling upon the State to repair the damage done by its officers to the human rights of the citizen. The State, in all such cases, is vicariously liable for the wrongful acts of its officers. When the State is called upon to grant monetary relief to the next of kin of the deceased or the victims of torture as the case may be, by the Commission it is because the doctrine of strict liability of duty of care on the part of the State is attracted to such cases. It is reiterated that the State is vicariously responsible, if the person in the custody of the police is deprived of his life except according to the procedure established by law, to recompense the heirs of the victims. The Government of Uttar Pradesh submitted its compliance report in respect of the payment of Rupees One lakh to the next of kin of the deceased.

**Death of Sh. Kantosh Prahlad Jadhav, in Police Custody by torture: Latur, Maharashtra**

On 28.10.1995 the Commission received information from the District Superintendent of Police (DISPOL), Latur, Maharashtra that one Kantosh Prahlad Jadhav aged 22 years was arrested on 28.10.1995 in PS MIDC, Latur Cr. Case No. 93/95 u/s 324,504 IPC & 135 Bombay Police Act. He had further stated that the

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15 Case No. 8924/95-96/NHRC
accused in custody committed suicide by hanging himself to the iron rod of the ventilator of the lock up with the help of torn part of blanket provided to him.

In response to the Commission’s notice dated 3.11.1995, the inquest report received showed no signs of beating either on the front side or back side of the body. The report further stated that post-mortem report indicated no external or internal injuries on the body of the deceased and the cause of death was opined as “asphyxia due to hanging”. The SDM in his enquiry report concluded that on the basis of statements of witnesses and on examination of the post-mortem report, the death of the Kantosh was due to suicide committed by him by hanging. However, he observed that there were other factors also such as, negligence and lack of responsibility on the part of police officials, which resulted in the incident.

The Government of Maharashtra submitted an Action Taken Report on the magisterial enquiry, which indicated that the accused police officials were placed under suspension and departmental enquiry had been initiated against the delinquent officials.

In response, the Home Department, Government of Maharashtra on 7.10.2004 informed the Commission that the State Government has decided to grant relief of Rs. 50,000/- to the next of kin of the deceased, Kantosh Prahlad Jadhav and after obtaining approval of the Commission, further action for disbursement of relief will be taken.

The Commission in its proceedings dated 20.10.2004 considered the case and approved the grant of Rs. 50,000/- as “interim relief” to be paid to the next of kin of the deceased Kantosh Prahalad Jadhav. Compliance report from the Government of Maharashtra is still awaited.

Custodial death of Haji Mohd. Nabuji Tentwala in Police Custody in Ahmadabad, Gujarat16


16 Case No.7586/95
two of the accused police persons namely PSI J.V. Surela & PC Bharat Kumar were arrested and bailed out on 31.10.1995 and 2.1.1996 respectively.

In response to the notice issued by the Commission, the Commissioner of Police, Ahmadabad City submitted the post-mortem, inquest and magisterial inquiry reports. According to the post mortem report the body of the deceased was having 23 ante-mortem injuries and the cause of death was indicated as “due to shock as a result of injuries present on the body”. The inquest report conducted by the Sub-Divisional Magistrate, Ahmadabad City indicated that there were signs of blunt weapon blows on various parts of the body. The magisterial enquiry conducted by the Sub-Divisional Magistrate, Ahmadabad City blamed the PSI Surela and ACP Brahma Bhatt and other police personnel for the death of Haji Mohd. Tentwala and recommended investigation to pin point the responsibility of the death and to ascertain the actual culprits from the police staff.

A separate report dated 20.7.1996 submitted by the District Magistrate, Ahmadabad, Gujarat indicated that a case No.19/95 u/s 302/323/504/114, IPC had been registered by the Crime Branch against PSI Surela and 4-5 police personnel and another case No.20/95 was registered u/s 330/342 against the main accused PSI Surela, PCs Navneet, Bharat Rathore, Raju and ACP Brahma Bhutt and four other police personnel.

After considering the case, the Commission held that the deceased was wrongfully arrested by the police for interrogation in a criminal case and was brutally thrashed to extract confession. Consequently, he suffered as many as 23 injuries, which resulted in his death. It is a case of gross violation of human rights. Accordingly, the Commission directed to issue notice to the Chief Secretary, Government of Gujarat to show cause as to why the Commission should not recommend payment of interim relief u/s 18(3) of the Protection of Human Rights Act, 1993 to the next of kin of the deceased.

The Secretary, Home Department, Government of Gujarat on 19.6.2004 submitted that criminal offences had been registered against the police personnel responsible for this and departmental action had also been initiated and are pending final outcome. It was acknowledged that human rights violation had taken place and the State Government had taken appropriate action against the concerned accused police personnel. The report further mentioned that for the violation of human rights,
both criminal and departmental proceedings had already been initiated and awaiting final outcome.

In the circumstances the Home Secretary requested that the show cause notice may be withdrawn and further action may be considered after the outcome of the criminal proceedings pending before the Court.

The Commission considered the response received from the State Government on 22.9.2004. While referring to the observations of the Hon’ble Supreme Court of India in the case of Neelbati Behra v. State of Orissa, 1993 (2) SCC 746, it observed and ordered as under:

(a) This Commission has taken a consistent stand that the obligation of the State to ensure safety of persons while in its custody is strict and absolute and admits no exception. The indefeasible right to life of every citizen, including convicts, prisoners or under trials, cannot be taken away except in accordance with the procedure established by law, while the citizen is in the custody of the State. Violation of that right renders the State vicariously liable for its acts of commission and omission and such liability is not contingent upon determination of the ultimate guilt of the offenders in a criminal court. Besides, death in police custody as a result of torture is perhaps the worst type of crime in civilized society.

(b) It is now an established law that the failure of the State to take all possible steps to protect the life of the citizens while in its custody makes the State vicariously liable for its action/ omission.

(c) Immediate interim relief envisaged in Section 18 (3) of the Act has to be correlated to the injury / loss which the victim or members of his family have suffered owing to the violation of human rights by public servants. By no stretch of imagination can it be argued that award of this immediate interim has to be dependent upon the strict establishment of criminal liability after a full dress court trial. If this view is accepted, the relief will then neither be immediate nor interim. A meaningful and harmonious construction of this clause would leave no doubt that the Commission is entitled to invoke its benevolent sweep on a prima-facie view of the matter irrespective of whether there is any litigation – civil or criminal relating to the matter.
(d) The idea of immediate interim relief does not therefore, presuppose the establishment of criminal liability of the offender in a court of law as a precondition for the grant of the relief nor does it depend on whether any civil litigation is either pending or prospective. A welfare state must recognize its obligation to afford relief to its citizens in distress, particularly those who are victims of violations of their human rights by public servants. The limiting of such statutory relief only to cases in which criminal liability of the offending public servant is established in a court of law beyond reasonable doubt is, to thwart an otherwise civilized piece of legislation by importing totally irrelevant limitations. The Commission desires to point out that the ground urged by the Government in this case, when it has been acknowledged by the State itself that there has been violation of human rights of the citizen, is misconceived. Accordingly, the Commission recommended to the State Government of Gujarat to pay a sum of Rupees One lakh by way of interim relief to the next of kin of the deceased and to submit compliance report to the Commission within four weeks. Vide communications dated 13/5/2005 and 14/9/2005, the State Government has informed that it has implemented the recommendations of the Commission and submitted proof of payment of Rs. One lakh to the widow of the deceased. Accordingly, the case was closed by the Commission.

Death of Gothandam in Police Custody: Pondicherry

The Commission issued notice to the Government of Pondicherry calling for a report regarding the custodial death of one Gothandam, aged 23 years, who was brought to the Police Station during the night of 15/16 February 1998 but who died in the course of interrogation. The report received from the Government of Pondicherry indicated that all the five police officials who had been involved in this incident were suspended, a criminal case had been registered against them and a sum of Rs. 60,000 had been paid as compensation to the father of the deceased.

The Commission observed, however, that the amount of Rs. 60,000 was too small, as the death of the young man in police custody. The magisterial enquiry report also showed that the victim has been tortured severely. Having regard to these

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17 Case No. 75/32/97-98/CD
facts, the Commission directed the issue of a show cause notice to the Government of Pondicherry as to why an additional amount of Rs. 2.00 lakhs be not granted as immediate interim relief under Section 18 (3) of the Protection of Human Rights Act, 1993.

The Government of Pondicherry responded saying that the matter was pending before a Court. The Commission, however, took the view that the payment of immediate interim relief under Section 18(3) of the Protection of Human rights Act, 1993 was not dependent on the outcome of the criminal prosecution. It accordingly directed the Government of Pondicherry to deposit an amount of Rs. 2.00 lakhs in a nationalized bank, in the name of the next of kin of the victim, adding that the interest that accrued thereon be made available to the next-of-kin every three months.

A report indicating compliance with the directive of the Commission has since been received.

Illegal Detention, Torture and Death of Shah Mohammed in Police Custody and Negligence on the Part of Doctors for not Conducting a Thorough Post Mortem: Madhya Pradesh

The Commission takes cognizance on a wireless message from the Superintendent of Police, Durg which indicated that the custodial death had occurred of Shah Mohammed, a resident of Bhilai in district Durg of Madhya Pradesh. A petition was later received from the Secretary of the Madhya Pradesh State Committee, CPI (ML) alleging that Shah Mohammed had been picked up by the police on the night of 16 July 1996, illegally detained and brutally tortured to death. The petition added that the wife of the deceased had not been informed of what had occurred.

The Government of Madhya Pradesh submitted copies of the magisterial enquiry report, the post-mortem report, the inquest panchnama and viscera examination report to the Commission.

According to the police, Shah Mohammed, along with five others, had been found to be travelling in a jeep under suspicious circumstances during the night of 17-18 July 1999. The group was apprehended by the Inspector of Bhatti, Bhilai and brought to the police station. Enquiries made indicated that they had hatched a

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18 Case No. 3855/96-97/NHRC
conspiracy to murder a lady, Ms. Mazara Bai, the foster mother of Shah Mohammed, after obtaining her signatures on certain papers purported to be a will of her entire property. In the afternoon, however, Shah Mohammed had complained of uneasiness and sickness and was, therefore, taken to Durg hospital for treatment. He died there later in the day. A Cri. Case No. 160/96 under section 115, 116, 120(B) IPC and 25, 27 Arms Act had been registered against Shah Mohammed and his associates.

The post mortem examination report indicated that there were only two injuries; one ante-mortem and the other post-mortem on the body of the deceased. The ante-mortem injury was in the form of a contusion measuring 2.5 cms x 2 cms on the lateral side of the left toe of the deceased, while the post-mortem injury (purportedly caused by a rodent bite) was on the right side of the cheek, measuring 9.3 cms x 3 cms from the edge of the lip to the ear, with a reddish liquid oozing out from the said injury. The inquest panchnama proceedings conducted by the City Magistrate and attested by five witnesses did not indicate any other external injury on the body. The magisterial enquiry was conducted by Shri B.L. Tiwari, Additional Collector and District Magistrate.

His report concluded that Shah Mohammed was in critical condition around noon and had, in fact, died even before he was moved to the hospital. The enquiry also stated that the two Doctors involved in conducting the post-mortem had produced an inconclusive report, which did not provide a definite opinion about the cause of death; nor had these doctors sent the requisite samples for histopathological examination to the Director, Medical Institute. The Additional Collector and District Magistrate therefore, concluded that the death of Shah Mohammed resulted from negligent conduct on the part of the concerned police officers.

After considering the reports the Commission found that Shah Mohammed was picked up by the police in the evening of 16 July 1996, kept in illegal detention in lock-up by the police of Bhatti, Bhilai until the afternoon of 18 July 1996 and brutally tortured during this period. This led to his death at the police station in the afternoon of 18 July 1996, before he was removed to the hospital.

The Commission acting under section 18 (3) of the Protection of Human Rights Act, 1993, recommended that the Government of Madhya Pradesh take action to register a case of custodial death against the Officer-in-charge of the Police Station Bhatti, Bhilai and other police officers who were responsible for causing the
death of Shah Mohammed; Initiate disciplinary proceedings against the two Doctors who had not conducted the post-mortem examination thoroughly and who had failed to prepare a comprehensive post-mortem examination report; Pay a sum of Rs. 2.5 lakhs to the next-of-kin of the deceased within a period of four weeks of this, an amount of Rs. 50,000 was to be payable immediately and the balance deposited in the fixed term account in a nationalized bank for a period of five years, the interest accruing thereon being paid to the next of kin.

**Torture in Police Custody Resulting in the Death of Kartik Mehto: Bihar**

Smt. Munuwa Devi complained to the Commission that her husband, Kartik Mehto, had been illegally detained by the police on 27 September 1995, brutally tortured and this led to his death in police custody on 4 October 1995.

In reply to the Commission the police admitted the death of the Kartik Mehto in police custody and a case had been registered against a Sub Inspector under section 302 IPC. The Sub Inspector had surrendered before the Court.

In the light of the report received, the Commission directed the Government of Bihar to pay immediate interim compensation of Rs. 2 lakhs to the family of the deceased and to recover this amount from the accused. The Commission also recommended that employment be given to one of the members of the family of the deceased, in accordance with his/her educational qualifications. Of the total amount of the compensation awarded, the Commission directed that 50 per cent be kept in a fixed deposit in the name of the widow of the deceased, who may be allowed to draw on the interest every quarter.

**Harassment by Police Leading to Suicide of Surinder Singh: Uttar Pradesh**

One Mukesh complained to the Commission in May, 1996 that a dispute existed between his brother Surinder Singh and a Chhatar Singh, in regard to a tube-well. He further said that the Sub Inspector of Police, R.K.Sharma, in connivance with the above said person had implicated his brother in a false case of theft. He also submitted that though a sum of Rs. 2000 had been paid to the Police on their demand, but the Sub Inspector had continued to torture Surinder Singh. Due to this humiliation his brother Surinder Singh had committed suicide on 5 May, 1996, leaving behind a written note blaming Sub Inspector R.K. Sharma for his death.

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19 Case No. 8903/95-96

20 Case No. 32757/24/2002 -2003 --and linked with Case No. 32539/24/2002-2003-CD
The Senior Superintendent of Police, Bijnore, Uttar Pradesh was directed by the Commission to investigate the matter and submit a report. According to the report the Sub Inspector had implicated Surinder Singh in a case under Sec. 379/411 IPC. He had then demanded Rs.5000, but only Rs.2000 was paid to him. The Sub Inspector also threatened the complainant and his family members and due to this harassment and mental torture, Surinder Singh committed suicide. During investigation, it was found that a case had been registered against the Sub Inspector under various sections of the Indian Penal Code. It was also found that a Head Constable, Assistant Sub-Inspector and a Station House Officer were also involved in this incident and the disciplinary action had been recommended against them. The Sub Inspector had been suspended and the Head Constable and other police officials had been charge-sheeted under the Police Rules.

The Commission considered it appropriate to award interim relief in the amount of Rs.1 lakh to the legal heirs of the deceased who, by admission of the police itself, were tortured while in custody and forced to commit suicide. The Commission further directed the Senior Superintendent of Police, Bijnore to inform the Commission of the progress in the various proceedings against the police officials.

Death of Arun Kumar Upadhyay in police custody while in transit from Sultanpur Jail to Lucknow in U.P.

The Commission received a complaint on 14 January 2003 from Ram Muru Upadhyay that his son Arun Kumar Upadhyay alias Babloo Upadhyay was an under-trail prisoner lodged in Sultanpur jail in Case No 74/2002 under section 302/120 B IPC, P.S. Maha Nagar, Lucknow. Son, of the complainant was apprehending threat to life; he requested jail authorities for providing him with proper protection and even moved an application in the court of CJM, Lucknow on 6 April 2003 seeking protection. The court allowed the application and issued directions to Officer-in-Charge, Escort and Jail Superintendent for providing special security to the son of the complainant when produced in the court. But the authorities did not provide adequate security. On 3 January 2003, at about 7.55 a.m. while the son of the complainant was being escorted by Constable Sampuranand Pandey and Satya Prakash Yadav by train to Lucknow, he was shot dead at Railway Station, Sultanpur. The Killers Mahender Singh Negi and others escaped. Raising suspicion on the role of the two constables in the Killing of Arun Kumar Upadhyay,
the complainant prayed for intervention of the Commission for proper investigation in the case.

An information of the death in custody was also received from the Superintendent, District Jail, Sultanpur, U.P.

After direction of the Commission, Superintendent of Police (HR), Office of the DGP, U.P, forwarded a report dated 30th September 2003 received from Additional Superintendent of Police, Lucknow and Circle Officer, Gomti Nagar, Lucknow which disclosed that appropriate steps for security of the deceased were taken and two Armed Constables were deputed for ensuring his safe transit from Sultanpur Jail to the court at Lucknow. The two Constables even acted diligently, chased the killers of deceased, and fired rounds, but the killers took advantage of the fog and managed to escape. The report concluded that there was no negligence on the part of the police personnel in the said matter. A Case No. 2/2003 under section 302/307/34/120B IPC had been registered and the accused Swatantra Kumar Tiwari and Lalit Negi have already been arrested. Proceedings under section 82/83 Cr.P.C. were initiated against Mahendra Singh Negi and efforts were made to trace the whereabouts of other accused Deepu. During enquiry, the conduct of the two constables was found somewhat negligent in as much as they took the deceased outside the Railway Station, when tea was available at the platform itself.

While considering the report on 19 December 2005, the Commission observed that:

“Admittedly, the above –mentioned two armed constables had been deputed for ensuring the safe transit of the deceased. Under these circumstances, they were supposed to be more careful about the safety of the deceased, yet, during transit, they allegedly took him outside the railway station to a teashop, although as per the report forwarded to the Commission, tea was available even at the railway platform. This, definitely, amounts to gross negligence and carelessness on duty, which resulted in the murder of the accused. We are of the opinion that this is a case of failure on the part of public servants in performance of their duty, of care for the safety of the deceased, who had expressed apprehensions about it and had even filed an application in the court of learned Chief Judicial Magistrate, Lucknow, seeking proper security. The report of the Addl. Superintendent of Police dated 30 September 2003 is also contradictory. While it is stated at one place that there was no negligence on the part of the police, yet, towards the conclusion it has been stated that the two constables were somewhat negligent and a preliminary enquiry had already been initiated against the two constables.
The Commission is of the opinion that prima facie, this is a case of violation of human rights of the deceased who lost his life due to acts of negligence of duty on the part of the constables as well as the failure of the State to provide proper security while escorting the deceased despite directions of the C.J.M. Accordingly, it is directed that notice under section 18(3) of the Protection of Human Rights 1993 be issued to the State of Uttar Pradesh through its Chief Secretary, calling upon him to show-cause why payment of interim relief be not recommended in favour of the next of kin deceased.

In response, Secretary, Home (HR), Department, U.P. on 12 May 2006 stated that since the full responsibility for the security of UTP was on the police administration, it would be appropriate to pay “interim relief” to the next of kin of the deceased.

The Commission vide proceedings dated 12 June 2006 recommended that a sum of Rs. 50,000/- be paid by U.P. Government through its Chief Secretary to the next of kin of the deceased as ‘interim relief’ under section 18 (3) of the protection of Human Rights Act, 1993 and to submit compliance report along with proof of payment within six weeks. Compliance report is awaited.

ii) Torture

False Implication of the Complainant and Others and Torture by police: Delhi.

One Dara Singh complained to the Commission that during the night of 26 March 2000 he, along with Manmohan Singh, Bhim Singh, Anil Sharma and others were detained in the Anand Parbat Police Station, Delhi at the instance of one Smt. Veero Devi. They were brutally beaten by Inspector A.S. Tyagi, Station House Officer and later implicated in a false case under section 506, 354 of the Indian Penal Code.

The Commission directed to Director General (Investigation) to enquire into the matter and submit a report. An enquiry was accordingly conducted by an Investigation Team of the Commission, which examined the complainant and his associates, Smt. Veero Devi, Sub Inspector Hari Prasad, Inspector A.S. Tyagi, Constable Sardar Singh and Shri Mohammed Ali, Assistant Commissioner of Police. Documentary evidence perused by the Investigation Team included the medico legal report (MLR) of the injured and the Daily Diary Report etc., maintained at the police station.

21 Case No. 3069/30/1999-2000
Considering the report submitted by the Investigation Team, the Commission reached the conclusion that Inspector Tyagi manipulated the DDR to show his absence from the police station at the time of the illegal detention and torture. It also appeared that Inspector Tyagi had taken offence at the conduct of Constable Sansar Singh who had appeared before the Investigation Team of the Commission and disclosed the truth. The Commission held that Dara Singh and others were illegally detained in the police station during the night of 26 March 2000 and that the Inspector was wholly responsible for this and the torture inflicted on them.

The Commission, therefore, recommended:

The payment of compensation of Rs. 10,000 each to Dara Singh, Manmohan Singh, Bhim Singh, Anil Sharma and R.K. Mishra for the torture in custody.

Departmental enquiry be initiated against Inspector A.S. Tyagi for his liability and action be taken based on the findings in the enquiry and Constable Sansar Singh may be transferred from the Anand Parbat Police Station to any other police station.

The Commission had been informed that compensation had been paid to the victims and departmental enquiry was in progress and Constable Sansar Singh had been transferred from the police station.

Allegations of Death, Rape and Torture of Tribals as a Result of Actions of the Joint Task Force set up by the Government of Tamil Nadu and Karnataka to Apprehend Veerappan and Associates.22

The Commission contained a detailed report regarding the harassment, rape, torture and death of villagers and tribals since mid-1997 living in the area where the Joint Special Task Force (JSTF) constituted by the State Governments of Tamil Nadu and Karnataka has been operating in its effort to apprehend the sandalwood smuggler, Veerappan.

That account provided an idea of the complaints received from a number of petitioners and the steps that the Commission received a lot of complaints from a number of petitioners and steps had taken in respect of each of them until the end of the last reporting period, namely, 31 March 2000. For each reference, a summary is provided below of certain of the steps taken in 1999-2000. The Commission:

a) Directed its Director-General (Investigation) in January 1999 to contact the principal complainants and the two State Governments in regard to the

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22 Case No. 222/10/97-98, Case No. 534/22/97-98, Case No. 795/22/97-98, Case No. 249/10/97-98, Case No. 79/10/99-2000.
serious allegations brought before the Commission, both in respect of torture and the detention of tribals under TADA;

b) Urged the two Governments to bring the cases of the TADA detenues before the respective Review Committees, in accordance with the directions of the Supreme Court.

c) Deputed its Special Rapporteur, Shri Chaman Lal, to visit Central Jail, Mysore. He reported that 127 persons in total had been detained under TADA by the Karnataka police during the years 1993-97, and that 51 of them remained under detention at the time of his visit on 25 March 1999. These 51 detenues comprised 34 persons (including 9 women) who had been in prison since 1993, 4 since 1994, 11 (including 8 women) since 1995 and 2 (including 1 woman) since 1997. Trials of these 51 TADA detenues had not commenced and none of them had availed of parole after being incarcerated.

d) The Commission called the senior-most officers of the two State Governments in April 1999 at New Delhi to discuss the situation so that appropriate action could be taken.

e) There was no major change in the situation. The Commission concluded in a proceeding of 18 June 1999 that the allegations of mistreatment of the villagers and tribals were serious and the facts relating to the languishing in jail of 51 detenues under TADA were true. The Commission expressed deep concern at the continued detention without trial and underlined the great importance that the Hon’ble Supreme Court itself attached to expeditious trial and relevance of such trial for the respect for the human rights of those concerned.

f) The Commission having regard to the circumstances felt the need to constitute a Panel of two eminent persons to look into the relevant aspects to the allegations. Justice A.J. Sadashiva was appointed Chairman of the Panel, with Mr. C.V. Narasimhan, former Director, CBI, as its Member. The two State Governments were requested for necessary cooperation to the Panel.

However, a Writ Petition was filed before the High Court of Karnataka challenging the jurisdiction of the Panel. On 27 March 2000, the High Court passed an interim order staying further proceedings of the Panel. The Commission
requested Shri Jayaraman, Advocate General of the State of Karnataka, to represent
the Commission before the High Court after going through the situation.

The Commission received a letter from Amnesty International on 13
September 2000 requesting to intervene in this matter in a proceeding before the
Apex Court. The Commission received a number of letters from non-governmental
organizations making similar suggestions. After considering the matter the
Commission took the view that it was already a party in this matter before the
Karnataka High Court, and had taken its stand before that Court and did not consider
it necessary to intervene in the Supreme Court.

On 1 November 2000, the Commission took note of a request on 1
November 2000, to intervene in proceedings before the Supreme Court which
sought the withdrawal of cases under TADA pending against the 51 detenues in the
Central Jail, Mysore. The request was made to the Commission by film star, Dr. Raj
Kumar having been taken hostage by Veerappan. The Commission observed that
this matter had been heard in the Supreme Court and closed for orders on 31 October
2000, according to media reports. A fresh request was made to the Commission on
the same subject; the Commission took the view that no intervention by the
Commission was required in the proceedings, which had been closed in the Supreme
Court after hearing of the arguments on 31 October 2001. The Commission observed
that it had placed its viewpoint before the Karnataka High Court in the matter
pending before it in connection with the proceedings before the Justice A.J.
Sadashiva Committee. The Commission added that it was sufficient reason not to
intervene without any notice from the Supreme Court to the Commission. The
Commission also noted that its view point was sufficiently well known to the State
Governments of Karnataka and Tamil Nadu, which were parties in the Supreme
Court. The Commission noted that there was no material available which gave an
indication that either or both of the State Governments had relied on the view point
of the Commission for the purpose of deciding to withdraw the prosecution against
the 51 detenues. The Commission, therefore, declined to intervene in the
proceedings in the Supreme Court.
Mistreatment and Torture of Prabhakar Mehta by the Officers of Enforcement Directorate: Maharashtra.\textsuperscript{23}

The Commission received a petition dated 26 December 1997 from Shri Prabhakar L. Mehta, a resident of Mumbai, regarding mistreatment and torture by officers of the Enforcement Directorate, Mumbai. He alleged that on 22 December 1997 the personnel of the Enforcement Directorate raided his residence and picked up both his wife and him at 1.30 p.m. from their home and taken them to the office of the Directorate. His wife had been released early in the night but the petitioner had been kept in custody overnight and tortured for furnishing false statements as a witness in an on-going investigation of the Directorate. He was brutally assaulted and denied food and water, passports belonging to him and to his wife had been illegally taken away and no reference had been made of their seizure in the Panchnama.

The Enforcement Directorate replied to the Commission that there was no substance to the complaint of Shri Mehta. The Commission then asked its own Investigation Division to conduct an independent inquiry into the facts of the case. Based on the oral, documentary and circumstantial evidence of independent witnesses, as well as an examination of doctors and hospital records, the Investigation Division stated that there was sufficient evidence in support of the allegations made by the petitioner.

A prima-facie case of the violation of law and the fundamental rights of the petitioner appeared to have been established; the Commission forwarded the petition of Shri Mehta, along with the report of Investigation Division, to the Commissioner of Police, Mumbai to register a case. The Commission also issued a show-cause notice to the Enforcement Directorate seeking to know as to why ‘immediate interim relief’ under section 18(3) of the Protection of Human Rights Act, 1993 should not be awarded to the victim as his human rights had been violated by public servants.

The Enforcement Directorate stated that the case of the petitioner was pending in the court of the Additional Chief Metropolitan Magistrate, Mumbai. The Enforcement Directorate contended that it could not grant immediate interim relief as this would seriously prejudice the Directorate’s case in the criminal prosecution,

\textsuperscript{23} Case No. 1208/13/97-98.
and the Commission should await the outcome of the criminal case before exercising its powers of recommendation.

After considering the response of the Directorate, and holding a series of hearings, the Commission concluded that the petitioner had been assaulted in the office of the Directorate and this had resulted in grievous injuries to him. As the criminal prosecution was pending, the Commission refrained from making any comments that would reveal the identity of the officers involved in the assault. A strong prima-facie case existed to establish that the human rights of the petitioner had been violated; no law entitled a public servant to violate the human rights of a person being interrogated on the suspicion of a charge. The granting of any relief under section 18(3) of the Protection of Human Rights Act, 1993 was for violation of human rights. Having regard to the facts and circumstances, the Commission, therefore, directed that the petitioner be granted relief in the amount of Rs.50,000. The Commission also observed that, in the pending prosecution, the parties were free to adduce evidence in support of their case. Further, the concerned court was free to consider independently the evidence on record and decide the case on merits without influenced by the proceedings of the Commission.

Subsequent to the proceedings before the Commission, the Enforcement Directorate filed a writ petition in the High Court of Delhi subsequent to the proceedings against the Commission’s recommendations. The matter is, at present, pending before that Court.

**Custodial death of Mohammad Irshad Khan**

The Deputy Commissioner of Police (DCP), North East District, Delhi gave intimation to the Commission about the death of Mohammad Irshad Khan. A complaint was also received from Shri Acchan Khan, father of the deceased, alleging that his son had died due to the brutal beating of the police. The family of the victim had not been informed of the circumstances of the death. The intervention of the Commission was requested, an independent investigation into the case and protection for the complainant’s family in view of threats by the police personnel involved in the death of Mohammad Irshad Khan.

The Home Secretary, Government of the National Capital Territory of Delhi replied to the Commission that the matter had been investigated by DCP (Vigilance),

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24 Case No.2387/30/2000-2001-CD)
Delhi. The report indicated that, on 12 October 2000, while the victim was driving his two wheeler scooter, he had collided with a cycle rickshaw. In the matter, a policeman had intervened and reportedly beaten the victim, who had collapsed on the spot. The victim was then taken to GTB Hospital, where he was declared to have been brought dead. A case FIR No.274 had been registered at Police Station Usmanpur and the accused Sub Inspector Vijay Kumar and Constable, Swatantra Kumar had been arrested. A magisterial inquiry had been conducted by the SDM, Seelampur.

The Deputy Secretary, Home Department, Government of National Capital Territory of Delhi, gave a further report on 9 April 2001 that a charge sheet had been filed against the delinquent police officials u/s 302/34 IPC.

Upon further consideration, the Commission directed that a show cause notice be issued to the Government of National Capital Territory of Delhi asking as to why immediate interim relief in the amount of Rs.3 lakhs u/s 18(3) of the Protection of Human Rights Act be not granted to the next-of-kin of the deceased. The Government of National Capital Territory of Delhi, in response, stated that Rs.3 lakhs had been sanctioned towards the payment of compensation to the next-of-kin of the deceased. It was later confirmed that the amount was paid to the wife of the deceased on 30 May 2001.

Custodial death of Ram Kishore—complaint by Uttar Pradesh Parjapati Samaj Vikas Parishad

The Uttar Pradesh Parjapati Samaj Vikas Parishad gave a complaint to the Commission that one Ram Kishore, a driver employed by M/s Goodwil Enterprises, Mohan Nagar, Ghaziabad had been killed while in police custody. According to complaint Ram Kishore had received an amount of Rs.1.5 lakh from certain parties in Meerut on behalf of his employers on 15 July 1993. Later that day he had been the victim of an armed robbery in Modi Nagar in which incident all the money had been taken away from him. Despite this, he was handed over to the police by his employers for interrogation, in which he was tortured in the police station. Ram Kishore was not released despite approaches being made to the District Magistrate and SSP, Ghaziabad. He died on the night of 23 July 1993. Thereafter, in order to hush-up the case, the dead body was taken to the District Hospital, Ghaziabad and

25 Case No.483-LD/93-94
the evidence of torture being destroyed from post-mortem report and a report was manipulated as to the cause of death. The Commission was requested to intervene, investigation was sought by the State Criminal Investigation Department (CID), and compensation urged for the widow of the victim the Commission issued a notice to the Government of Uttar Pradesh and directed the State CID to conduct an enquiry. Despite this, considerable delays occurred, requiring the Commission to pursue this matter relentlessly over a number of years. Finally, on 4 April 2000, the Government of Uttar Pradesh informed the Commission that a charge-sheet had been submitted u/s 302/343/330/217/218/201/34/120 B IPC in the court of the Chief Judicial Magistrate (CJM), Ghaziabad against the proprietor of the M/s Goodwill Enterprises, Shri R.P. Chada, the then Inspector In-charge, Shri R.B. Pathak and the concerned Sub-Inspector Shri Jawahar Lal. Further, a warning had been issued to an Assistant Superintendent of Police (ASP), and a misconduct entry made in the record of another Sub Inspector. The departmental action was under consideration in respect of another ASP, an accused doctor and an SDM. A warning had also been issued to the SDM, Modi Nagar.

The Commission held in its proceedings of 19 September 2001 that the fact of the prosecution of public servants in itself was sufficient proof and justification for award of immediate interim relief. It accordingly issued a show cause notice to the Government of Uttar Pradesh asking as to why such relief be not granted to the next-of-kin of the deceased u/s 18(3) of the Act. The State Government was also asked to intimate the action taken against the remaining delinquent public servants. As no reply was received from the Government of Uttar Pradesh within the time stipulated, the Commission proceeded to order the payment of compensation in the amount of Rs.3 lakhs as immediate interim relief to the next-of-kin of the deceased.

**Death of Lallan due to negligence in providing medical treatment: Uttar Pradesh**

The district authorities of Pratapgarh, Uttar Pradesh, informed the Commission about the custodial death of one Lallan on March 2000. The report received from the Home Secretary, Government of Uttar Pradesh stated that a magisterial inquiry had been held in the matter. That inquiry indicated that two cross FIRs had been registered against Lallan and others for an incident of beating and

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26 Case no. 28302/24/1999-2000
firing in which Lallan had also been injured. The enquiry report also stated that there had been negligence on the part of the police and the doctor intending to Lallan, the injuries on his person had not been examined carefully and no steps had been taken by the police to give him immediate medical treatment when his condition had grown serious.

According to the Commission this was a case of negligence on the part of the doctor and the police resulting in the death of Lallan. The Commission issued a show-cause notice to the Chief Secretary, Government of Uttar Pradesh why immediate interim relief be not granted to the next-of-kin of the deceased Lallan; it also recommended that disciplinary action be initiated against the doctor and the Delinquent police officials despite the issue of show-cause notice on 4 September 2001 and a reminder dated 30 October 2001 sent to the Chief Secretary, Government of Uttar Pradesh and no response was received. The Commission, therefore, assumed that the Government of Uttar Pradesh has no cause to show against the proposed action. In its order dated 28 January 2002, therefore, the Commission directed that the Government of Uttar Pradesh pay Rs.1 lakh as immediate interim relief to the next-of-kin of the deceased and initiate departmental action against the Senior Medical Officer (SMO) Pratapgarh and other delinquent police officials.

**Death in custody of former Sarpanch of Gogon Village, Chuhur Singh due to negligence: Punjab**

A news published in 'The Tribune' of 11 September 2000, the Commission took suo-motu cognizance about the death of a former Sarpanch of Gogon Village, Chuhur Singh, who died in police custody on 10 September 2000. The victim was arrested in a poppy-husk smuggling case and died in the hospital while in custody.

The District Magistrate, Hoshiarpur, submitted a report to the Commission indicting that Assistant Sub-Inspector, Mahilpur Police Station was responsible for negligence he acted against the advice of the doctor on emergency duty and taken Chuhur Singh to the court thus worsening his condition. A departmental enquiry had, therefore been initiated against the Assistant Sub Inspector. The report, denied any torture or beating by the Mahilpur police, as alleged by relatives of the deceased.

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27 Case No.431/19/ 2000-2001
In view of this finding of negligence in providing timely medical aid, the Commission issued a notice to the Chief Secretary, Government of Punjab to show cause, within four weeks, as to why Rs. 50,000/- be not paid as immediate interim relief under section 18 (3) of the Act to the next of kin of the deceased.

The Commission in its proceedings dated 22 May 2002 considered the reply from the Government of Punjab stated that the question of compensation be kept under consideration till the finalization of the enquiry. The Commission, however, overruled this objection and pointed out the purpose of Section 18 (3) of the Act, viz. the provision of immediate interim relief in instances where a strong prima facie case of the violation of human rights had been made out. This did not need to await determination of final liability in another proceeding. The Commission observed that the concept of immediate interim relief ceases to be meaningful if it is subjected to the final determination of the existence of the guilt of the violator. The Government of Punjab was accordingly directed to pay the compensation.

Death of Bujhai in police custody due to torture: Uttar Pradesh

The Superintendent of Police, Ambedkar Nagar, Uttar Pradesh gave an information to the Commission on 2 August 1996 about the death of Bujhai on 30 May 1994, while in police custody, in connection with case No.54/94 registered against the deceased for murder. The magisterial enquiry referred and recommended a CID enquiry. Accordingly, case No.121/96 was registered at Bevana Police Station for investigation.

Upon consideration of the report received from the police authorities of the State, and given the inconsistencies that had been noted in respect of this case, the Commission directed its own Investigation Division to look into this matter. Pursuant to the recommendation of the Investigation Division, the Commission directed the State Government to have the matter investigated by the CB CID. Pursuant to this directive, the State CB CID submitted a report on 28 December 2000 in which it stated that 11 police officials had been held responsible for committing offences under various provisions of the Indian Penal Code (IPC) and that charge sheets had been submitted in the court.

In its proceedings dated 11 March 2002, the Commission sought information on the current status of the prosecution and issued notice to the Chief Secretary,

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28 Case No.4238/96-97/NHRC
Uttar Pradesh to show cause as to why immediate interim relief under section 18 (3) of the Act be not awarded to the next of kin of the Deceased. No reply was received from the State of Uttar Pradesh in spite of reminders, by its order dated 12 June 2002 the Commission held that the Government of Uttar Pradesh has no cause to show against the award of immediate relief and proceeded to award immediate interim relief of Rs.1,00,000 to the next of kin of the deceased.

**Death of Radhey Shyam in police custody due to torture: Rajasthan**

On 12 May 1999, the Commission was informed by the Superintendent Police, District Jhalawar, of the death of Radhey Shyam, son of Ram Lal Darji, resident of Bacchapur, District Ratlam, Madhya Pradesh in the custody of Gangdhar Police Station, Jhalawar District, Rajasthan during the night of 6 May 1999.

The Home (HR) Department sent a report to the Commission dated 2 April 2000 in which it was stated that Radhey Shyam along with two others, was arrested in case No.65/99 on 5 May 1999 by police personnel of Ganadhar Police Station. He was brought to the police station and subjected to torture during interrogation. His dead body was, thereafter, disposed of in order to destroy evidence, and his family members were threatened. The State Government registered a case and entrusted investigation to CB CID. During investigation, a crime was established against the Station House Officer and four constables. The State Government had paid an ex-gratia amount of Rs.50,000/- to the next of kin of the deceased.

After considering the report, the Commission asked for the outcome of the action initiated by the State Government against the concerned public servants. It also issued notice to the Chief Secretary, Government of Rajasthan to show cause why a further sum be not awarded under section 18 (3) of the Act as immediate interim relief.

The Commission considered the reply submitted by the Government of Rajasthan stated that a charge-sheet had been submitted against the guilty police personnel in a court of law and that the amount of Rs.50,000/- already paid to the next of kin of the deceased be accepted as the final payment for the custodial death of the deceased.

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29 Case No.205/20/1999-2000-CD
The Commission held that the amount paid was inadequate compensation for the life of a human being and directed the Government of Rajasthan to pay a further amount of Rs.1,00,000 to the next of kin of the deceased. In response, the State Government of Rajasthan indicated that it had paid the additional amount of Rs.1,00,000 on 19 August 2002, in compliance with the directive of the Commission.

**Death of Karan Singh in police custody due to violence: Madhya Pradesh**

The Commission received an information on 24 October 2000 from the Collector and District Magistrate, Morena, Madhya Pradesh that the police personnel of the Ambah Police Station had conducted a raid and arrested persons involved in gambling on 24 October 2000 and one of them, Karan Singh, who was in an intoxicated condition, was admitted in the Ambah Hospital, District Morena where he expired.

The Sub Divisional Magistrate, Ambah sent a copy of the magisterial inquiry report on 16 February 2001 which stated that Karan Singh had died in the custody of Ambah Police Station on 24 October 2000 due to custodial violence and the Assistant Sub Inspector and Head Constable were responsible for his death.

On 26 February 2002, the Commission called for a report on the legal and departmental action taken against the delinquent police personnel who had been held responsible for the death of Karan Singh and issued a notice to the Government of Madhya Pradesh to show cause as to why immediate interim relief under section 18 (3) of the Act be not granted. The Home Department, Government of Madhya Pradesh, submitted a report dated 5 June 2002 which indicated that, on the basis of a case under section 304 and 34 IPC read with 3 (2) 5 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the accused had been arrested, produced in court and a charge sheet had been filed in court on 10 May 2001. Further, the widow of the deceased had been paid interim relief in the amount of Rs.1,50,000 on 6 November 2000. The balance of Rs.50,000/- would be paid upon the completion of the case in the court. In the light of the action taken by the State Government, the Commission decided to close the case.

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30 Case No.1935/12/2000-2001-CD
Death of Zakir in Police Custody at Pushp Vihar Police Station, New Delhi

The Commission was informed by the Dy. Commissioner of Police (South District.), Delhi of the custodial death of Zakir in the Police Station of Pushp Vihar, New Delhi on 12 May 2001. The Commission registered a case and called for relevant report from the concerned authority. In view of the conclusion arrived in the magisterial inquiry with regard to the custodial death of Zakir that “the death was caused by use of blunt force during the course of interrogation and detention in the Police Chowki, Pushp Vihar” and that the involved police officers were prosecuted by the Government of National Capital Territory of Delhi, the Commission awarded immediate interim relief under section 18(3) of the Protection of Human Rights Act, 1993. It also issued a show cause notice to the Government of National Capital Territory (NCT) of Delhi.

In response, the Government of NCT brought to the notice of the Commission that the accused had already been charge-sheeted and the case was pending in the Court for verdict and that in the given circumstances they had no objection to pay interim relief to the bereaved family.

After consideration the Commission directed the Government of NCT of Delhi to pay Rs. 2.00 lakhs as immediate interim relief to the next of kin of the deceased.

According to the directions given by the Commission, the Government of NCT indicated that a cheque for Rs. 2.00 lakhs had been delivered to Ms. Jannat, wife of Late Shri Zakir, and the proof of the payment was also submitted. In the light of the action taken by the Government of NCT of Delhi, Commission decided to close the case.

Death of Madan Bhilala in Police Custody at Balawar Police Station, Distt. Khargaon: Madhya Pradesh

The case relates to the custodial death of Madan Bhilala in Balawar Police Station, District Khargaon, Madhya Pradesh on 27 April 2001. On perusal of the post-mortem report, the Commission noticed that the cause of death was due to dehydration.

The Commission also observed that according to the findings in the magisterial enquiry, the deceased was kept in illegal detention since 21 April 2001 at Balwara Police Station and the police was responsible for the death of the deceased.

31 Case No. 525/30/2001-2002-CD
32 Case No. 71/ 12/2001-2002-CD
The Commission issued show cause notice to the Government of Madhya Pradesh, as to why Rs. 1.00 lakh be not paid as immediate interim relief under section 18(3) of the Protection of Human Rights Act, 1993 to the next of the kin of the deceased and appropriate action taken against the responsible police officials, the State Government requested the Commission to re-consider the matter as the cause of death of Madan Bhilala was due to dehydration and not police torture.

The Commission did not find any ground to recall its earlier order. The Commission noticed that the magisterial inquiry had indicated that the death was due to dehydration caused by diarrhoea as per the Medical Officer’s report. The Commission held that these findings clearly indicated that the death was not merely due to illegal detention of the deceased, but also, negligence in providing medical care while he was in detention. The Commission, therefore, directed the State Government to pay a sum of Rs. 25,000/- as immediate interim relief to the legal heirs of the deceased.

According to the Commission’s directions, the Government of Madhya Pradesh sent a report indicating that an amount of Rs. 25,000/- was paid to the legal heirs of the deceased. Proof of payment was also furnished to the Commission. Since the directions of the Commission were complied with and the compensation was paid to the next of the kin of the deceased, the case was closed.

**Death of Chhigga in the Police Custody at P.S. Sirsi, District Guna: Madhya Pradesh**

The Commission received an information from the Superintendent of Police, District Guna, Madhya Pradesh about the death of Chhigga on 16 October 2000 in police custody at Police Station Sirsi, District Guna, Madhya Pradesh.

After considering the report of magisterial inquiry, the Commission held that inability to provide proper and regular treatment while in police custody caused the death of Chhigga. The Commission held that the injuries caused to him were not attributed to any maltreatment by police personnel, the negligence of the concerned public servants in not providing the timely medical treatment during police custody was the immediate and proximate cause of death.

In response to the show cause notice issued by the Commission, the Government of Madhya Pradesh stated that no police personnel were held

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33 Case No. 1800/12/2000-2001-CD
responsible for the death of Chhigga in the magisterial inquiry, it would not be appropriate to grant interim relief to the family of the deceased. The Commission felt that the response given by the Government of Madhya Pradesh to the show cause notice was not satisfactory as both the magisterial inquiry and the report of the District Magistrate, Guna unequivocally showed that the injuries received by Chhigga caused his death, were compounded due to non-availability of proper and timely medical treatment while he was in the police custody. According to the magisterial inquiry report, the deceased, who was sent for treatment to the hospital while in police custody, was denied food on the ground that it was not available in the hospital. He was also asked to pay Rs. 35/- for the X-ray. On being informed by the deceased that he did not have any money with him, he was sent away to get money for getting the X-ray done and purchase of medicine, although technically he was still in custodia-legis. All this signified that the hospital was not functioning in a proper way. The Commission therefore directed the Chief Secretary to consider asking the Health Secretary to look into the functioning of the hospital and take such remedial steps as deemed necessary.

Accordingly, the Commission recommended that the next of kin of the deceased Chhigga be paid a sum of Rs. 20,000/- by way of immediate interim relief under section 18(3) of the Act. Pursuant to the Commission’s directions the Government of Madhya Pradesh informed that the payment of Rs. 20,000/- has been made to the next of the kin of the deceased. The case is being monitored by the Commission.

**Police Torture of Mentally Disabled Lyek Anwar In Chamanganj, Kanpur, Uttar Pradesh**

The Commission on 22 December 2002 received a complaint from Iftkhar Ahmad that his mentally Challenged son Lyak Anwar was stopped and questioned by constable Firoz Khan of police post Takia Park police station Chamanganj without any reason. Due to his mental disability, he could not answer the questions and the constable Firoz Khan took him to police post, and beaten with lathi and his head was struck against the tree. Due to this his son sustained serious injuries. When the complainant came to know about the incident, he took his son to the doctor for treatment. After that the complainant went to the police station to report the

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34 Case No.36115/24/2002-2003)
matter, but the SHO and other police officials did not register his complaint. He then prayed to the Commission for action against the delinquent constable.

When the Commission enquired about the matter Superintendent of police, South, Kanpur on 16 July 2003 forwarded detailed inquiry report of Circle Officer, seesamau, Kanpur. On 11 May 2003 Circle Officer Seesamau found constable Firoz Khan of police station Chamanganj guilty of beating the son of the complainant and recommended departmental enquiry against the delinquent constable and was punished with 7 days P.O through order dated 15 July 2003.

The Commission issue a notice under section 18(3) of the protection of Human Rights Acts, 1993 to Chief Secretary, U.P to show cause why interim relief be not recommended in favour of the victim.

The Secretary, government of U.P on 23 March 2006 submitted that the Human Rights of the victim were violated, the grant of interim relief to the victim seems to be justified.

The Commission recommended to the state of U.P through its chief secretary to pay Rs.10,000/- as immediate interim relief to Lyek Anwar within four weeks.

Compliance report along with the proof of payment is awaited.

iii) Death in Judicial Custody

Death of Bhaiya Lal in Judicial Custody in Uttar Pradesh

The Commission received an information on 25/8/98 from the office of the DG (Prisons),UP, Lucknow about the death of under trial prisoner Bhaiya Lal S/o Dhanraj Yadav while undergoing treatment at Swaroop Rani Hospital on 1/8/98. In response to the notice issued to the Home Secretary, Government of UP, a magisterial inquiry report was received which indicated that the victim was subjected to custodial violence. There was evidence of custodial violence as well as negligence in providing treatment to Shri Bhaiya Lal which resulted in his death. The cause of death disclosed was heavy bleeding from the anus.

The Commission held that there was violation of human rights of Bhaiya Lal while in the custody of police and jail authorities. The Commission, accordingly, directed to issue notice to Chief Secretary, Government of UP to show cause why immediate interim relief u/s 18 (3) not be granted to the next of kin and also recommended action against the concerned officials.

35 Case No. 9161/24/98-99-CD
No response was received from the Government of UP to the show cause notice, the Commission recommended an interim compensation of Rs. 1 lakh to the next of kin of the deceased. Compliance report called for in respect of payment of interim relief as well as the status of action taken against the errant public servant is still awaited.

**Death of Jasveer Singh in judicial custody due to negligence in providing timely medical aid: Uttar Pradesh**[^36]

The Commission received a reference from the Human Rights Court, Kanpur Nagar, relating to the death in judicial custody of one Jasveer Singh. The Court had come to the conclusion that the deceased had been denied proper and timely medical attention while in custody, on account of which he had died of acute intestinal obstruction. The Court further held that the death in custody of the said under trial was the result of gross negligence and carelessness on the part of the public servant. An amount of Rs.2,70,000 was determined by the Court as an appropriate compensation to be paid to the dependents. Since no specific power is given under the Act to such a Court to award compensation to the victim in addition to or apart from any provisions under the Criminal Procedure Code, or award punishment to the guilty under the IPC or any other relevant law, the Human Rights Court referred the issue of compensation to the NHRC.

The Commission considered the facts and circumstances of the case with the findings of the learned Judge of the Human Rights Court, Kanpur Nagar and, in its order dated 20 September 2001, held that a strong *prima facie* case had been made out to justify the grant of immediate interim relief u/s 18 (3) of the Act,

The Commission accordingly recommended to the State of Uttar Pradesh that it make a payment of Rs.2,70,000 as immediate interim relief to the next-of-kin of the deceased. The Commission also recommended the initiation of proceedings to identify the delinquent public servants and to take disciplinary action against them.

**Death of Dhirender Singh in Jail: Uttar Pradesh**[^37]

The Commission, on receiving intimation of the custodial death of a prisoner named Dhirender Singh, in the District Jail, Jaunpur, on 20 January 2000, called for a detailed report from the Government of Uttar Pradesh. The report stated that certain ‘anti-social elements’ had gone to the main gate of the District Jail on that

[^36]: Case No.5190/24/1999-2000-CD
[^37]: See, Case No.21808/24/99-2000/CD
date and had asked for an under-trial prisoner, Jaya Prakash Singh, on the pretext that they had to hand-over a letter to him. Jaya Prakash Singh went to the main gate, where the deceased was also present at that time. The ‘anti-social elements’ fired at Jaya Prakash Singh, but he escaped. However, a stray bullet hit the deceased in his stomach. He was rushed to the hospital where he was declared dead. The report further stated that the deceased had gone to the main gate to collect milk, bread and paper as he was authorised to do so. A detailed magisterial inquiry conducted to look into the matter and arrived at the conclusion that there was negligence on the part of the jail authorities which resulted in the death of Dhirender Singh.

The Commission after considering the report, directed the State Government to remove shortcomings of the kind that had come to light in this case. It also held that the death of Dhirender Singh was due to the negligence on the part of the prison administration. Accordingly, it issued a show-cause notice to the State Government asking as to why immediate interim relief should not be paid to the next-of-kin of the deceased. Since no reply was received from the Government of Uttar Pradesh to the show-cause notice in spite of a reminder, the Commission through its order of 3 July 2001 concluded that the death of the deceased was due to the negligence on the part of the jail authorities and awarded a sum of Rs.75,000 to the next of kin of the deceased u/s 18(3) of the Act.

Death of Sanjay Sharma in District Jail, Mathura: Uttar Pradesh

The Commission take cognizance on the basis of an information received regarding the death of Sanjay Sharma, an under-trial prisoner, on 21 March 2001 in the District Jail, Mathura. According to the records of the case, the Commission noted that there had been negligence on the part of authorities in providing medical treatment to Sanjay Sharma. In reply to the Commission, the Government of Uttar Pradesh sent a report stating that Dr. A.K. Yadav, Medical Officer was issued a show cause notice and that a criminal case was also registered against the involved police officials and that the case was under investigation.

The Commission held that the pendency of civil or criminal proceedings or investigation was no ground for not granting any immediate interim relief. The Commission noted that a show cause notice was issued to the concerned Medical Officer for the negligence in treating the deceased, and, that a criminal case was

38 Case No: 41373/24/2000-2001-CR
registered against the involved police officials. The Commission held that there was a prima facie violation of human rights relating to the life of the deceased. Having regard to the facts and circumstances of the case, the Commission directed the Government of Uttar Pradesh to pay a sum of Rs. 50,000/- to the next of kin of the deceased as immediate interim relief and also to intimate the status of the cases registered against the concerned officials. The case is being monitored by the Commission.

**Custodial death of under-trial prisoner, Harjinder alias Jinda, due to negligence: Uttar Pradesh**

The Superintendent of Police, District Khiri, Uttar Pradesh gave an intimation to the Commission on 20 August 1999 of the custodial death of an under-trial prisoner, Harjinder alias Jinda, on 19 August 1999. The Home Secretary, Uttar Pradesh submitted an investigation report stating that a magisterial enquiry had been held in the case, which concluded that the deceased had died owing to the carelessness of police officials while the deceased was being taken to the court under police custody. The police officials responsible were also named in the magisterial enquiry report. There is inconsistency between the findings of the magisterial enquiry report and the postmortem report. The postmortem report indicating that the deceased had died due to "asphyxia as a result of ante-mortem drowning", the Commission in its proceedings dated 23 May 2001, directed the Government of Uttar Pradesh to entrust the matter to the CB CID for further investigation.

It also directed the State Government to show cause why suitable interim compensation not paid to the next of kin of the deceased. No reply was received from the State Government within the time stipulated, the Commission, in its proceedings dated 14 June 2002 concluded that the under trial prisoner Harjinder, had died in judicial custody for the reasons recorded in the findings of the Executive Magistrate, ie. "negligence on the part of police personnel".

The Commission held that the State is vicariously liable for the death of the under trial prisoner. Accordingly, it recommended a sum of Rs.100,000 as immediate interim relief to the next of kin of the deceased

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39 Case No.8437/24/1999-2000-CD
Death of an Under-trial Prisoner, Tachi Kaki: Arunachal Pradesh 40

The State of Arunachal Pradesh informed the Commission about the custodial death of an under-trial prisoner, Tachi Kaki, who was arrested in a case on 25 July 2002 for offences under sections 140/352/397 of the IPC. There were other cases pending against him. On 28 July 2002 he was interrogated at the Police Station, Basar, and was being taken to the lock-up at about 8 p.m. he tried to run away from the custody of the police. Seeing this, a sentry raised an alarm and he was chased among others, by Assistant Sub-Inspector A. Bharali who accidentally fired from his service revolver from a very close range. This caused the death of the accused on the spot.

The magisterial enquiry was held in the matter and it was found that the police official did fire at the deceased, which was not warranted. After considering the report, the Commission noted that there was no occasion for the ASI, A. Bharali to fire at the accused Tachi Kaki after he was apprehended while escaping from the police station. After going through the facts and circumstances of the case the Commission believed that the human rights of the deceased were violated by the police personnel, and, therefore it issued a show cause notice to the State Government as to why an immediate interim relief under section 18(3) of the Protection of Human Rights Act, 1993 be not granted to next of the kin of the deceased. The State Government of Arunachal Pradesh have communicated their decision to provide an immediate ex-gratia relief of Rs. 50,000/- to the next of kin of the deceased and that its payment would be intimated to the Commission. The case is being monitored by the Commission.

Death of Gurnam Singh in Judicial Custody in District Jail, Kapurthala 41

The Commission received information on 26 June 2001 from Superintendent, District Jail, Kapurthala, and Punjab about the death of one under trial prisoner Gurnam Singh on 25 June 2002 undergoing treatment in Civil Hospital, Kapurthala. A complaint dated 8 July 2002 was also received from Gurdeep Singh, brother of the deceased who requested for payment of compensation to the next-of-kin of the deceased.

40 Case No. 14/2/2002-2003-CD
41 See, Case no 157/19/2001-2002-CD

According to the Magisterial Enquire Report, Gurnam Singh complained of chest pain and the Co-prisoner tried to draw the attention of the jail authorities by striking spoons and steel plates continuously, but the jail officials and employees failed to respond. Gurnam had been complaining of chest pain for 3-4 days. There was gross negligence on the part of jail doctor also. It was recommended that the jail hospital doctor should be transferred immediately. The post-mortem report mentioned that the cause of death would be known only after the viscera. The final cause of death has been give as asphyxia because of aluminum phosphide poisoning, which is sufficient to cause death in ordinary course of nature.

Upon perusal of report on the Magisterial Inquiry submitted by the Addl. Secretary (HOME), Government of Punjab on 23 June 2003, it showed that Gamdoor Singh, Superintendent Jail (now retire), Gian Singh, the then acting Deputy Superintendent Jailor (now retired), Puran Singh, the then officiating Assistant Superintendent (now Head Warder), Jasmail Singh, Head WARDER AND Mr. Jaswant Singh, Warder all delinquent officers/officials, had been charge-sheeted under rule 8 of the Punjab Civil Service (Punishment and Appeal) rules 1970 for imposing major penalties. The action was being taken by Department of Health and Family welfare, Punjab.

On 7 December 2005, the Commission observed that in magisterial inquiry report it has been found that there was negligence on the part of jail officials and the jail doctor in not promptly ensuring medical treatment to the deceased under-trial prisoner. For the previously mentioned lapses departmental proceedings had been initiated against the delinquent officials. As per the post-mortem report and the viscera examination report, the cause of death was opined as asphyxia because of aluminum phosphide poisoning. This, prima facie, indicated failure on the part of jail officials in their duty of care towards life and person of the deceased for which the State is also vicariously liable. The Commission held that prima facie this is a fit case to consider grant of “immediate interim relief” to the next of kin of the deceased. Accordingly, the Commission directed that notice under section 18(3) of
the Protection of Human Rights Act. 1993 be issued to the Chief Secretary, State of Punjab Calling upon him to show-cause within four weeks why immediate interim relief be not recommended to be paid to the next of kin of the deceased.

The Commission considered a report dated 22 June 2006 received from the Government of Punjab, Department of Home Affairs and Justice (Jail Branch), which indicated that disciplinary proceedings against the delinquent officials were in progress. It was further stated that if Hon’ble Commission deemed it appropriate to grant immediate relief to the deceased’s legal heirs, State Govt. has no objection to it.

While considering the facts and circumstances of the case, the Commission on 19 July 2006 recommended that a sum of Rs. 1 lakh be paid to the next of kin of the deceased. The Chief Secretary, Government of Punjab was directed to submit compliance report together with proof of payment to the Commission within six weeks.

Under Secretary, Home Department, Government of Punjab on 23 August 2006, has informed that sanction for Rs. 12 lakh for payment to the next of kin of the deceased has been issued. Proof of payment is awaited.

vi) Custodial Torture

Death of Manoj Kumar due to torture by police: Uttar Pradesh

Smt. Vijay Lakshmi gave a complained to the Commission alleging that Manoj Kumar, her son, had been implicated in a false case u/s 307 IPC and tortured in police custody and this had resulted in his death on 8 August 1996.

After consideration of the report received from the Chief Secretary and the Director General of Police (DGP), Uttar Pradesh, it was observed that when Manoj Kumar was admitted in the District Jail, Agra on 7 August 1996, he had a number of injuries on his person and he died on 8 August 1996. The post-mortem Report confirmed these injuries on various parts of his body. The Commission noted that the doctors concerned with the treatment of Manoj Kumar in hospital had not acted responsibly.

The Commission observed that it had issued instructions from time to time regarding the need to medically examine persons immediately after arrest and every 48 hours thereafter while in custody. These instructions had not been complied with.

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42 Case No.7955/96-97/NHRC
by the police department. The Commission held that death of Manoj Kumar had taken place while in the custody of the police. A show cause notice was accordingly issued to the Government of Uttar Pradesh asking as to why compensation in the amount of Rs.2 lakhs be not granted to the next-of-kin of the deceased as immediate interim relief, and action initiated against the delinquent police officers through disciplinary proceedings.

No reply was received to the show-cause notice and subsequent reminder, the Commission in its proceedings of 24 September 2001 recommended that the State Government pay Rs.2 lakhs as immediate interim relief to the next-of-kin of the deceased. It also ordered the initiation of disciplinary proceedings against the delinquent public servants.

**Death of Shishu Rebe due to torture in police custody: Arunachal Pradesh**

The Inspector General of Police (IGP), Itanagar, Arunachal Pradesh gave an information to the Commission about the death of one Shishu Rebe who was arrested on 10 March 1996 on a murder charge and kept in Chiyangtigo police station lock-up, where he died on 29 March 1996.

According to the directions of the Commission a final investigation report was received from the Superintendent of Police (SP) Headquarters Itanagar, Government of Arunachal Pradesh. It indicated that the deceased had been tortured by a Sub-Inspector and that a charge-sheet had been filed against Sub-Inspector u/s 304 in a case that was now before the Sessions Courts, Seppa. A sum of Rs.30,000 had been sanctioned by the State Government to be paid to the next-of-kin of the deceased.

In proceedings dated 31 July 2001, the Commission opined that the amount of compensation appeared to be inadequate and a subsequently show cause notice was issued to the State Government asking as to why a sum of Rs.1 lakh should not be paid to the next-of-kin of the deceased and disciplinary action initiated against the delinquent public servant. The Government of Arunachal Pradesh, in its reply dated 28 August 2001, indicated that it had no objection to pay the compensation amount as directed by the Commission, including the sum of Rs.30,000 already paid by it. As regards disciplinary action against the delinquent public servant, it was stated that since case No.3/96 u/s 304 IPC was pending trial, disciplinary action would be taken after the trial of the case was completed.

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43 Case No.74/96-97/NHRC
The Commission, in its order dated 16 October 2001, recommended that the balance of Rs.70,000 be paid to the next-of-kin of the deceased as an amount of Rs.30,000 had already been paid by the State Government. The Commission directed that departmental proceedings should be pursued even while the criminal case was pending, since the criminal proceedings and the departmental proceedings were independent of each other and this matter had been settled by several judgments of the Supreme Court.

**Torture and gang rape by police officers in Tripura**

Shri Suhas Chakma, Director, Asian Centre for Human Rights, New Delhi gave a complaint to the Commission alleging that Ms. Reang, a 17 year old girl was tortured and gang raped by a group of three Special Police Officers of the State Government of Tripura on 26/5/2003. The victim girl’s family complained to the police station naming the three guilty SPOs but their complaint was not recorded.

A report received from the DGP, Tripura indicated that a case No. 6/2003 u/s 366 (A), 376, 326 and 34 IPC was registered in Police Station Raishyabari against the three named persons on 28/5/2003. The medical report confirmed that the victim, aged 17 years was sexually assaulted and raped. The three SPOs had been discharged from the service, arrested and sent to jail. In view of the gravity of the allegation of sexual brutality committed on a hapless girl by the three SPOS, the Commission directed to issue a notice to the Chief Secretary, Government of Tripura to show cause as to why interim relief not be granted to the victim.

The Government of Tripura informed the Commission that it had paid an amount of Rs. 15,000/- as compensation to the victim Ms. Mithirung Reang. However, the Commission observed that the offence of rape not only amounts to violation of the human rights of the victim, but it also tends to violate the mind and scar the psyche of a person permanently. Besides, it carries a social stigma for the victim and her family. The Commission, directed the Government of Tripura to pay an amount of Rupees Fifty thousand as immediate interim relief to the victim after adjusting Rupees Fifteen thousand already paid. As the State Government submitted its compliance report in respect of payment of an amount of Rupees Thirty five thousand, the case was closed on 10/1/2005.

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44 Case No. 5/23/2003-2004-WC
Harassment and Torture of Jagannath Shaw by the RPF Staff: West Bengal

The complaint of harassment and humiliation to one Jagannath Shaw of Raniganj Burdwan, West Bengal by two members of the Railway Protection Force on 6 April 2002. A report received from Divisional Railway Manager, Asansol stated that an inquiry had been conducted by CIB/HQ and a charge sheet for imposing a major penalty under rule 153 of the RPF Rules, 1987 had been issued to the Sub Inspector S.C. Sahay and Head Constable G.K. Sinha who were involved in the incident. The Commission through its proceedings dated 20 February 2003 directed that a notice be issued to the Eastern Railways, Calcutta to show cause why immediate interim relief under section 18(3) of Protection of Human Rights Act be not given to the victim. The concerned Railway authorities informed that the responsible officials were already being dealt within the Department for which a major penalty was also likely to be imposed on them and that there was no provision under the Railway Act. to grant interim relief in such cases.

After consideration the Commission in its proceedings dated 31 March 2004 observed that it was strange that the Railway authorities were insensitive towards the value of human rights of an individual. It further noted that under the provisions of the Act, if prima facie, it was brought to the knowledge of the Commission that there has been violation of the human rights of an individual, immediate interim relief under section 18(3) of the Act could be awarded irrespective of any other proceedings initiated in the matter, whether it be by the concerned Department, or by any other authority, or court. Accordingly, the Commission directed that Rs. 10,000/- be paid as immediate interim relief under section 18(3) of the Protection of Human Right Act 1993. The case is being monitored by the Commission.

v) Police Harassment

False implication of Manoj Kumar Tak and Narender Tak: Madhya Pradesh

Anuradha Tak and her husband Manoj Kumar Tak, both residents of Ramnagar, Sodala, Jaipur, Rajasthan gave a complaint to the Commission alleging that Manoj Kumar Tak and his brother, Narender Tak, were falsely implicated by SI, C.B.S. Raghuvanshi in case No.70/1998 u/s 392 IPC at the behest of one Sushil Sharma (Advocate), father of Anuradha, who did not approve the marriage of his daughter with Manoj Kumar Tak. The Commission, in its proceedings of 9 May

45 Case No: 118/25/2002-2003
46 See, Case No.667/12/98-99-FC
2001, *prima facie* found that a gross violation had occurred of the human rights of Manoj Kumar Tak and his brother, Narendra Kumar Tak, as was evident from the findings of the CID inquiry which were not disputed by the State Government. The State Government had indicated that it had registered a criminal case against the then police station Incharge, SI, C.B.S. Raghuvanshi, Sushil Kumar Sharma, Advocate and some others, and that SI Raghuvanshi had since been removed from service. The Commission issued a notice to the State of Madhya Pradesh to show-cause why immediate interim relief u/s 18(3) of the Act be not awarded to the victims.

In reply, the State Government raised two objections, (i) that only SI C.B.S. Raghuvanshi, the then police station Incharge and Sushil Kumar Sharma, Advocate were held responsible in the CID enquiry for the violation of human rights. Hence only they should be made responsible for payment of the amount and not the State Government; (ii) that C.B.S Shri Raghuvanshi had challenged the action of the State Government before the High Court and, therefore, during the pendency of the matter before the High Court, the State Government should not be required to make any payment.

The Commission on 9 May 2001, while referring to its earlier decisions in Case Nos.91/10/98-99 and 181/95-96/NHRC, reiterated the underlying principle and the object of enacting Section 18(3) in the Protection of Human Rights Act 1993. The Commission observed ‘(i) the object of Section 18(3) of the Act is to provide immediate interim relief in a case where a strong *prima facie* case of violation of human rights has been made out, so that the complainant is provided immediate relief which need not await determination in another proceeding of the full compensation awardable or identification of the particular public servant guilty of the violation and determination of his liability in another proceeding. The effect of award of “immediate interim relief” under Section 18(3) of the Act is that the amount so awarded is to be adjusted in the total compensation determined as payable in a proceeding like a Civil Suit so that the same amount is not paid over twice, and no more; (ii) A welfare state recognising its obligation to afford “relief” to its citizens in distress, particularly those who are victims of violations of their human rights by public servants, has made this law under which the Governments seek advice from the National Human Rights Commission as to what in this view, is reasonable “immediate interim relief” in a given case so that the State can act on the
recommendation. The recommendations of the Commission are not, no doubt, binding judicial orders. The limiting of such statutory relief only to cases in which criminal liability of the offending public servant is established in a Court of law beyond reasonable doubt by standards of criminal evidence. The Commission desires to point out that the ground urged by the Government in this case is wholly irrelevant; (iii) the meaning to be given to Section 18(3) by any State professing to be welfare state should ensure a liberal construction to promote the philosophy of the statute and to advance its beneficent and benevolent purposes. The view that implies that administration of such “immediate interim relief” could only be at the end of the day, after the guilt of the offending public servant is established in a criminal trial on the standards of criminal evidence would nullify the great humanism the statute seeks to enshrine…’

The Commission held that the liability of the State of Madhya Pradesh for payment of the amount to be ordered as ‘immediate interim relief’ u/s 18(3) of the Act cannot, therefore, be doubted and this liability of State does not depend upon and need not be deferred till, fixation of liability of any individual public servant. Accordingly, the Commission awarded a sum of Rs.3 lakhs as immediate interim relief to the two victims. Compliance has since been made, following an intervention with the Chief Minister of the State.

**False implication of Rajinder Singh: Haryana**

Saubhagyawati of Ballabhgarh, Faridabad alleged inaction by the police in her complaint regarding harassment of her daughter, Savita, by her husband and in-laws. She alleged false implication by the police of Rajinder Singh, husband of Saubhagyawati’s second daughter, at the instance of Savita’s in-laws. She said that Rajinder had tried to intervene and get the matter settled, upon which Savita’s in-laws had lodged a false complaint against him.

The SP, Faridabad admitted that the Police Station House Officer (SHO), Puran Chand, did not investigate the case lodged by the petitioner properly. The case filed against Rajinder Singh was also found to be false and departmental action had been taken against the SHO.

The Commission held that a false case had been registered against Rajinder Singh, and the petitioner and her family had to undergo mental torture. It therefore

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47 Case No.810/7/98-99
issued a show cause notice to the SP, Faridabad as to why an amount of Rs.10,000 be not paid to the petitioner and Rajinder Singh.

The Senior Superintendent of Police (SSP) pleaded that the case against Rajinder Singh was cancelled after it was found to be false and that no grounds therefore remained for the award of compensation. Meeting on 18 September 2001, the Commission however held that the very fact that the offending officials had committed lapses and had been dealt with departmentally, was sufficient, prima facie, to establish that there were valid reasons for the grant of immediate interim relief. The Commission accordingly directed payment of compensation in the amount of Rs.10,000 to the petitioners. The amount was paid soon thereafter.

**Suicide by Vinod Kumar Rajput due to police harassment: Madhya Pradesh**

Mrs. Deepa Rajput gave a complaint to the Commission on 22 October 1998 alleging that, while her husband, Vinod Kumar Rajput was returning from the bank to his shop on 30.7.98 alongwith a cash of Rs.2.5 lacs, some miscreants attacked him with a sword and snatched the entire money from him. Despite lodging a report with the Police, no action was taken to apprehend the culprits. On the other hand, her husband was repeatedly called by the Police to the Police station and was tortured. As a result, he committed suicide on 6.9.98. She prayed for an appointment on compassionate grounds and compensation.

The District Collector, in his report, stated that since the husband of the complainant was not in Government service, no Government service could be offered to the complainant on compassionate ground as per the administrative rules. The enquiry report disclosed that Shri Rashid Khan, ASI had threatened Shri Vinod Kumar of defaming his father and his wife if he did not disclose everything. Shri Vinod Kumar swallowed two tablets of sulphur on the way, due to which he died in Hameedia Hospital. This version also finds support from the dying declaration of Vinod. The Inquiry Officer concluded that the suicide committed by Shri Vinod Kumar was not a result of police action but due to fear of defamation that may affect his family members. The IO held ASI Rashid Khan guilty of threatening Shri Vinod Kumar and recommended departmental action against him.

The Commission considered the afore mentioned reports on 30/08/2001 and held that the deceased was forced to commit suicide due to the threat of the ASI.

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48 Case No.1412/12/98-99(FC)
Accordingly, it issued show cause notice to the State Government u/s 18(3) of the Protection of Human Rights Act, 1993 to show cause as to why compensation of Rs.1 lakh be not awarded to the complainant. In reply, the State Government of Madhya Pradesh, vide letter dated 7/8/2002, submitted that necessary instructions were issued by the SP Bhopal to recover an amount of Rs. 50,000/- @ Rs. 2,000/- per month from the salary of the guilty police official, i.e. ASI Rashid Khan and to pay the same to the complainant. ASI Rashid Khan was punished by stopping his increment for one year.

The Commission, on 07/07/2003 recommended interim relief of Rs.1 lakh to the complainant and called for compliance report from the State Government of M.P. within six weeks. The compliance report has since been received.

**Complaint from Sarita Sahu, Resident of Ranchi: Jharkhand**

The Commission took cognizance of a complaint dated 14 October 2001 from Sarita Sahu, a resident of Tharapkhana, Ranchi, alleging that on 28 September 2001 at 10.30 p.m., a police party raided her house, picked her up, her brothers as well as her parents and took all of them to the office of the Superintendent of Police, Ranchi, on charges of acting in a blue film entitled “Chhamia”. The police got a report printed in a local daily ‘Prabhat Khabar’ on 29 September 2001 that three girls were arrested in connection with the production of the blue film. She was abused and assaulted by the police and forced to pose for photographs.

The Director General and Inspector General of Police, Ranchi, Jharkhand submitted the report stating that the matter was investigated by the CID and the charges levelled by the complainant against the police were found to be largely true. The acts of omission and commission on the part of Ranchi Police had been exposed. The then Superintendent of Police, Ranchi was primarily held responsible for the incident. The CID also found nine police personnel responsible for this incident against whom departmental action was being taken.

The Commission held that Sarita Sahu and her family members were subjected to mental agony, harassment and humiliation by the police and directed the State Government to show cause why interim relief be not granted to the victim under section 18(3) of the Protection of Human Rights Act. The Government of Jharkhand intimated to the Commission that the matter was investigated by the CID.

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49 Case No. 974/34/2001-2002
and that on the basis of their report, explanations have been called for from the concerned police personnel and necessary action would be taken after they had tendered their replies.

According to the facts and circumstances of the case, the Commission directed the Government of Jharkhand to pay Rs. 1,00,000/- (Rupees One Lakh only) to the complainant as “interim relief” under section 18(3) of the Act for causing mental agony, harassment and humiliation to the complainant and other members of her family. The Commission directed the DGP, Jharkhand to intimate the outcome of the departmental action initiated against the delinquent police personnel on the basis of the findings of the CID report. The case is being monitored by the Commission.

vi) Illegal Detention and Torture

Illegal Detention, Torture and False Implication by Police: Uttar Pradesh.50

The Commission received a telegram on 22 March 1999 alleging that Anil Kumar and Rajendra Kumar had been taken away by the Faizabad Police from Kanpur on 15 March 1999 and had not been produced before the Chief Judicial Magistrate until 16 March 1999. The police had beaten them mercilessly, their hands and legs had been broken and they were unable to walk.

The Commission called for a report from the Director General of Police, Uttar Pradesh (U.P). The report received from the Superintendent of Police, Faizabad, Uttar Pradesh stated that, on 22 March 1999, two persons, namely, Anil, s/o Ram Nath and Ragey, s/o Shivnath had been arrested by the police from Karayappa Marg Press Club Gate, Civil Lines, Faizabad on the ground that they had, in their possession, 18 and 20 tablets of an intoxicating drug. A case crime No. 941 and 942 under section 21/22 of the Narcotic Drugs and Psychotropic Substances Act (NDPS), had been registered against them and was under investigation. It was added that the Inquiry Officer had not found the allegations of torture by the police to be true.

The Commission directed that it be sent to the complainant for his comments. In response, the complainant reiterated the stand taken by him in the complaint. Thereupon, the Commission directed its Director General (Investigation) to depute

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50 Case No. 21883/24/98-99
an officer from the Investigation Division to investigate the case. The officer of the Commission after conducting the investigation, reported the following:

- On 12 March 1999, a case had been registered at Police Station Kotwali, Faizabad by one Daya Shankar regarding the alleged theft of his jeep and investigation had been entrusted to Sub Inspector R.K. Saxena.

- On 14 March 1999, this Sub Inspector accompanied by Daya Shankar, a friend and three constables, visited Kanpur with a view to conducting a raid on the Yashoda Guest House. As they were not allowed to enter this Guest House initially, they took the help of Sub-Inspector Nageshwar Pandey of Naubasta PS, Kanpur, entered the Guest House and arrested Anil Kumar, his brother Rajesh Kumar and Rajendra Kumar.

- The police beat all three of them as they had denied any involvement in the theft of the jeep. They were detained illegally on 15 and 16 March 1999 at PS Naubasta and Rail Bazaar of Kanpur.

- Thereafter, Rajesh Kumar was sent away, but the others were taken to PS Civil Lines, Faizabad and were kept in illegal custody from 17 to 22 March 1999. They were thereafter implicated in a false case, produced before a Court, and subsequently released.

- They were not medically examined though they had received injuries.

The Commission concluded that the police had deprived the three persons of their liberty. The Commission recommended that the Government of Uttar Pradesh pay immediate interim compensation of Rs. 40,000 each to Anil Kumar and Rajendra Kumar and Rs. 10,000 to Rajesh Kumar. The Director General of Police, Uttar Pradesh was also directed to cause an inquiry to identify the police personnel responsible for holding the three persons in illegal detention, and for torturing them. The Director General of Police was also asked to initiate appropriate action against the responsible police personnel in accordance with the law and to submit a report on the steps taken to the Commission.

**Illegal Detention and Torture of an ISRO Scientist: Kerala**

The Commission, on 14 March 2001, directed the Government of Kerala to pay a sum of Rs. 10 lakhs as 'immediate interim relief' to Shri S. Nambinarayanan, a scientist working in the Indian Space Research Organisation (ISRO) Headquarters in

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51 Case No. 235/11/98-99
Bangalore, as compensation for gross violation of his human rights by public servants. The background to the decision is given below.

In October 1994, a criminal case of espionage under the Indian Official Secrets Act, 1923, was initiated in which Shri Nambinarayanan was implicated as an accused along with five others. He was arrested on 30 November 1994. The case was handed over to the Intelligence Bureau (IB) on 5 December 1994. The complainant alleged illegal detention and custodial torture by officials of the Kerala Police and IB and the involvement of the Inspector General of Police (Crimes) of the Kerala Police and the Joint Directors of the IB in his illegal detention and in the gross violation of his human rights during custody. He also alleged considerable humiliation and trauma to his entire family by officers of the Kerala Police and IB.

On 2 December 1994, the Government of Kerala had issued a notification entrusting the investigation of the case to the Central Bureau of Investigation (CBI). Shri Nambinarayanan was then remanded to CBI custody till the Kerala High Court ordered his release on bail on 19 January 1995. According to the report submitted by the CBI to the Chief Judicial Magistrate, Ernakulam on 13 April 1996, the allegations of espionage were not proved and were found to be false. The CBI investigation also disclosed that the accused persons had been harassed and physically abused, which was supported by medical examination. This torture was apparently inflicted to extort confessions.

Accepting the final report of the CBI, the Chief Judicial Magistrate, by his order dated 2 May 1996, discharged the complainant and the other accused. However, the Kerala Police filed a revision petition in the Kerala High Court challenging the complainant’s discharge. The Court dismissed the petition.

The Government of Kerala took the unusual step of issuing a notification withdrawing the consent given to the CBI for investigation of the case and ordering ‘reinvestigation’ by a special team of the Kerala Police. The notification was later amended to describe the ‘reinvestigation’ as a ‘further investigation’.

The complainant filed a writ petition in the Kerala High Court. The Court held that even though the State Government’s notification could not be quashed, it had no jurisdiction to file a complaint before a court in respect of any offence under sections 3, 4 and 5 of Indian Official Secrets Act. The complainant in an appeal before the Supreme Court challenged this judgment. The Supreme Court, by its judgment dated 29 April 1998, quashed the notification directing ‘further
investigation’. It also passed strictures against the Kerala Government and observed that the subsequent notification issued by it was inconsistent with the role of a responsible Government bound by the rule of law. Accordingly, the Apex Court awarded Rs. 1.00 lakh to each of the appellants as costs to be paid by the Kerala Government.

After the conclusion of the criminal case against him, Shri Nambinarayanan submitted a petition to the Commission on 14 October 1998 complaining of the gross violation of his human rights and seeking the award of compensation.

The Commission, held that the allegation of the gross violation of the human rights of the complainant by officers of the Kerala Police and IB were proved by the conclusions of the CBI report, which had been upheld by the Apex Court of the country. The Government of Kerala had supported this unlawful action, which was a malafide exercise of power, as held by the Supreme Court. The complainant, a senior scientist of considerable repute, whose contribution in Space Research was acknowledged, was kept under suspension for a period of 18 months on a false case foisted on him which resulted in a loss of his reputation and damage to his health in addition to the considerable expenditure incurred by him to defend himself from the false accusation. However, the findings of the CBI, duly approved by the Supreme Court, were sufficient to prove the gross violation of his human rights by public servants.

After a lapse of considerable time, the IB, by its letter dated 29 August 2000, informed the Commission that the charge sheets issued by the Ministry of Home Affairs, Government of India, had been served on 9 IB personnel. The Commission, thereafter, on 4 September 2000, issued notice to the Ministry of Home Affairs as well as the Government of Kerala to show cause as to why immediate interim relief under Section 18(3) of the Protection of Human Rights Act, 1993 be not granted in favour of Shri S. Nambinarayanan.

The Government of India as well as the Government of Kerala appeared before the Commission through their counsel to submit their objections. According to the counsel for Government of India, a Civil Suit had been filed by the complainant claiming damages amounting to Rs. 1.00 crore against the State of Kerala and the Union of India, the outcome of which would be prejudiced by the award of relief by the Commission. Further, it was held that the matter was sub judice and so the Commission should not grant any such relief. It was also urged
that disciplinary proceedings were pending against the charge-sheeted IB officers the outcome of which might also get prejudiced by the Commission’s directions. The counsel for the State of Kerala contended that the complaint had been made more than one year after the alleged violation of human rights and thus barred from the purview of the NHRC.

The Commission disposed of the objections raised, holding that the true scope and object of section 18(3) of the Act and the nature of ‘immediate interim relief’ granted thereunder, was to provide immediate interim relief in a case where a strong prima-facie case of violation of human rights had been made out. Regarding the bar of limitation of one year under section 36(2) of the Act, the Commission expressed its opinion that because the inquiry into the facts had been concluded with the findings of the Supreme Court and as no independent inquiry was required to be conducted by the Commission, the period of one year could commence only from 29 April 1998 when the Supreme Court gave its judgment. Even if the complaint had been filed earlier, i.e., within one year of the complainant’s arrest on 30 November 1994, the matter in the Commission would have to be kept pending because of the pendency of proceedings in the competent courts till its final conclusion in the Supreme Court.

The Commission directed that the sum of Rs. 10 lakhs should be paid to Shri S. Nambinarayanan by the Government of Kerala as ‘immediate interim relief’ within two months and compliance reported to the Commission. The Government of Kerala was also directed to report on the action taken against its delinquent officers, as directed by the Commission on 6 September 1999.

**Negligence of police personnel leading to wrongful confinement of Ikramuddin: Uttar Pradesh**

Shri Ikramuddin, a resident of District Bagpat, Uttar Pradesh gave a complaint to the Commission on 14 January 2000 alleging that a case was registered at the Police Station Baraut against Ikramu, a resident of Baraut. During trial, the accused did not appear in the court and a non-bailable warrant was issued against him. The police instead of arresting Ikramu, arrested Ikramuddin on 20 June 1999, despite his protest. He was released on bail by the court, after filing an affidavit that he was not

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52 Case No. 23239/24/1999-2000
the accused in the case. A prayer was, therefore, made for action against the delinquent police officials and for compensation.

The Superintendent of Police, Bagpat submitted a report which indicated that the Sub-Inspector, Head Constable and the Constable of Police Station, Baraut had been found guilty of dereliction of duty inasmuch as they did not make a proper verification before arrest and also because they had made wrong entries in the record. A departmental inquiry had been instituted against the errant police officials.

The Commission held that the complainant had suffered great financial loss and mental agony due to wrongful confinement on account of negligence of police officials and directed the issue of a show cause notice under Section 18(3) of the Act to the Government of Uttar Pradesh.

A report was submitted by the Special Secretary, Home Department, Uttar Pradesh indicating that the errant police personnel had been awarded the punishment of censure. The report added that since the police had not beaten and caused injuries to the complainant, he was not entitled to any financial assistance. The Commission held that the complainant had been compelled to remain in jail for about one and a half months and that he had incurred an expenditure of Rs. 10,000/- to get himself released. The Commission therefore directed the State of Uttar Pradesh, through its Chief Secretary, to pay a sum of Rs.50,000/- as immediate interim relief under Section 18(3) of the Act, to the complainant within 8 weeks.

**Illegal detention and torture of D.M. Rege: Maharashtra**

The Commission received a complained from D.M. Rege, an officer of Shamrao Vithal Co-operative Bank Limited, Versova Branch, Mumbai that he was illegally detained and tortured by the police in connection with an incident involving the misplacement of cash in the Bank and requested for an inquiry into the matter.

A report was received from the DCP, Zone- VII, Mumbai. It indicated that the complainant was indeed innocent, and that his detention and torture were unjustified. The report also mentioned that the guilty Constable had been awarded a minor punishment by way of forfeiture of his increment for one year, while the delinquent Sub-Inspector had been transferred out.

The Commission directed the Police Commissioner, Mumbai, to have the matter re-examined in order to ensure that the responsible police personnel were

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53 Case No.1427/13/98-99
suitably punished. The Commission also issued a show-cause notice as to why Rs.30,000 be not awarded as immediate interim relief to the victim. The Commission requested to reconsider the issue of payment of compensation on the ground that two of the policemen had been immediately transferred, and that the Constable had been awarded punishment of stoppage of his increment for one year for his misconduct. The Commission, in its order dated 10 April 2001, rejected the plea of the State Government, and held that, since the guilt of the public servants had been established, there were no grounds to justify a re-consideration of this matter and directed that compensation of Rs.30,000 be paid by the State Government to the complainant for violation of his human rights.

**Unlawful Detention of Manoharan: Tamil Nadu**

A telegraphic complaint was received by the Commission from M. Meena stating that a case Cr. No 334/01 under section 147/342/363/506 of the IPC was registered against her brother-in-law, Varadarajan and that the police was searching for him. On the night of 27 May 2001, the police, picked up her husband, Manoharan, and took him to the police station, where he was unlawfully detained and brutally tortured.

The Superintendent of Police, Tiruchirapalli confirmed that the complainant’s husband Manoharan was unlawfully arrested by the Deputy Superintendent of Police, Jayashree and Constable G. Rajasekaran and detained at the police station, Tiruchirapalli without any valid reason.

The Government of Tamil Nadu forwarded the report of the DG(P), Chennai, Tamil Nadu stating that there was no ill treatment meted out to the complainant’s husband and that he was detained in the police station for inquiry. Manoharan had also stated that he was treated by the police decently and therefore grant of interim relief to Manoharan was not warranted.

The Commission observed that the enquiry revealed that the Deputy S.P. of Tiruchirapalli had unlawfully detained Manoharan in the police station and caused him mental agony, although there was no case pending against him. Therefore there was no valid ground to review the earlier directions of the Commission.

The Commission therefore directed the State Government of Tamil Nadu to pay a sum of Rs. 50,000/- as immediate interim relief to Manoharan and initiate a

54 Case No:213/22/2001- 2002
departmental enquiry against erring police officials for his wrongful confinement. Regarding the Commission’s directions, a compliance report has been submitted by the State Government of Tamil Nadu.

**Illegal Detention and Torture in Police Station, Shikarpur: Uttar Pradesh**

Ganga Prasad a resident of District Bulandshahar, Uttar Pradesh gave a complaint to the Commission alleging illegal detention and torture of his son Prahlad Swaroop and one Satish, son of Chiranjilal by police personnel belonging to Police Station, Shikarpur at the instance of Zamindars in the village.

The report received from the Senior Superintendent of Police, Bulandshahar, the Commission directed that a copy of the report be sent to the complainant for his comments. In his response, the complainant reiterated his allegations and again submitted copies of medical reports of his son Prahlad and Satish along with affidavits from some of the villagers in support of his allegations. The Commission in its subsequent proceedings dated 21 August 2002 noted that the medical examination of Prahlad Swaroop and Satish was conducted on 17 August 1999 clearly showed that the injuries inflicted on Prahlad Swaroop and Satish were by some hard and blunt object. It therefore directed the State Government of Uttar Pradesh to show cause why an immediate interim Relief under section 18(3) of the Act be not awarded to the victims in this case. The Commission did not receive any response from the Chief Secretary, Government of Uttar Pradesh. However, the Senior Superintendent of Police, Bulandshahar forwarded an inquiry report submitted by Additional Superintendent of Police of District, Khurja. In the detailed report of Additional Superintendent of Police, District Khurja, the allegations of the complainant stood substantiated. Keeping in view the findings recorded by the Additional Superintendent of Police, District Khurja and taking note of the fact that the Chief Secretary, Government of Uttar Pradesh had not shown any cause against the grant of immediate interim relief, the Commission vide its proceedings dated 23 July 2003 directed that a sum of Rs. 10,000/- be awarded to each of the two victims viz. Prahlad Swaroop and Satish by the State of Uttar Pradesh. The case is being monitored by the Commission.

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55 Case No. 17171/24/1999-2000
Police beating of Jagdish Kawale leading to grievous injuries: Maharashtra

Shri Sudhir T. Dhurwey, an advocate, gave a complaint to the Commission on 8 November 2001 alleging that Shri Jagdish Kawale, a resident of Pauni, District Bhandara, Maharashtra was mercilessly beaten by a police official of Pauni Police Station on 2 March 2001. The victim suffered grievous injuries resulting in a fracture to one leg and he also had to spend a considerable amount of money for his treatment in the Bhandara Government Hospital.

The Superintendent of Police, Bhandara, Maharashtra, gave a report indicating that departmental action had been instituted against the Assistant Sub-Inspector involved in this incident and that he had been punished by the stoppage of his increment. A charge sheet had also been filed in a criminal case under the relevant sections of IPC against the concerned official and the matter was sub-judice.

In view of the strong prima-facie case against the Assistant Sub-Inspector, which was also reflected in the departmental action against him. The Home Department, Government of Maharashtra stated that since the police authorities had taken just and proper action, it would not be appropriate to grant immediate interim relief until the decision were known in respect of the two cases pending in court - one filed against the complainant by the Assistant Sub-Inspector, and the other filed by the police against their own guilty colleague.

The Commission held that the grant of interim relief did not depend upon the outcome of any trial proceedings, whether criminal or departmental, and that it had power to grant immediate interim relief in those cases where a strong prima facie case was made out for violation of the victim's human rights. Having regard to the circumstances of the case, including medical reports submitted in support of the victim's claim of serious injuries inflicted by the Assistant Sub-Inspector of Police, the Commission, by its proceedings dated 2 March 2003, recommended that State Government should give a sum of Rs.50,000/- to the victim as immediate interim relief. The State was allowed liberty to recover the said amount from the Assistant Sub-Inspector of Police, after notice to him and after taking appropriate proceedings in accordance with law. In compliance with the Commission's recommendation, the Government of Maharashtra issued the necessary sanction for the payment of interim relief.

56 Case No. 1585/13/2001-2002
Police high-handedness against a Teacher in Kota: Rajasthan

The Commission received a complaint on 10 October 2001 from Shri Prem Chand, a teacher in the Government School at Kota, alleging that on 29 September 2001 he was picked-up by the local Sub Inspector, illegally detained, falsely implicated in a case, tortured and denied food and water during the period of his detention.

The Commission received an investigation report which indicated that, while executing a warrant of arrest issued by the Court of Chief Judicial Magistrate, the complainant was mistakenly picked-up by the police instead of his namesake, the latter being wanted in a criminal case. For this lapse on the part of the Sub Inspector, departmental action had been initiated against him.

Due to the illegal detention and the clear violation of complainant’s human rights, the Commission issued a notice to the Chief Secretary, Government of Rajasthan to show cause, within 6 weeks, as to why immediate interim relief under Section 18 (3) of the Act be not given to the victim. As of 31 March 2003, the response of the Government of Rajasthan was awaited.

Police Atrocities and false implication of a Dalit in Bihar

The Commission on 12 October 2000 received a complaint from Dayanand Manjhi and his wife Ramavati Devi, who being belong to a poor scheduled caste family, stating that they had raised a loan of Rs 20,000/- under Jawahar Rojgar Yojna at the instance of one, Satan Rai, who utilized the loan for purchase of building material. On the basis of a report lodged with the police, a case No. 71/2000 was registered at Harijan PS, Hajipur. Offended by it, Satan Rai also got a case registered against the complainant. Sub-Inspector Devanand Jha helped the opposite party and raided the house of the complainant in the night of 24 September 2000. He abused the family members and outraged thre modesty of the complainant Ramavati who was stripped naked and kept in the lock up. A prayer was made for independent investigation and action against the accused.

In response to the notice issued to the Director General of Police, Bihar, a report dated 13 April 2002 was received admitting the registration of two cases, as mentioned in the complaint and the fact that Satan Rai had beaten the complainant Dayanand Majhi and tortured him for whom a criminal case no. 71/2000 was

57 Case No. 1603/20/2001-2002
58 Case No.2541/4/2000-2001
registered. The accused was arrested and a challan in the case, after investigation, had been filed in the court. As regards case no.116/2000 registered at the instance of Satan Rai for various offences under IPC, the report mentioned that the case was investigated by Devanand Jha, Sub-Inspector. In the course of investigation, it was established that he had visited the house of the complainant, misbehaved with his family members, arrested them and put them in the lock-up. However, no truth was found in the allegations and a final report had been submitted to the court on 5/8/01. It was further mentioned that for the misconduct of Sub-Inspector Devanand Jha, departmental action was taken against him. He was suspended and, at the culmination of the department inquiry, his increment for one year was stopped.

Upon consideration of the report on 19 June 2003, the Commission observed that the fact that Sub-Inspector, Devanand Jha, misbehaved with the complainant and his family members was itself sufficient to hold that there was violation of human rights, in as much as their dignity was lowered in the eyes of the public. The Commission, therefore, directed to issue notice to the Chief Secretary, Government of Bihar, to show-cause within four weeks as to why immediate interim relief under section 18(3) of Protection of Human Rights Act, 1993 be not given to the petitioner.

In response to show-cause notice, Home Secretary, Home (Police) Department, Govt. of Bihar endorsed to the Commission a copy of the Sanction letter dated 22 February 2006, the case was closed on 27 October 2006.

**Detention of Syed Ahmad alias Munna under mistaken identity in Varanasi, Uttar Pradesh**

Syed Ahmad alias Munna, a resident at house No.B-9/33, Mohalla Pheelkhan, Gauriganj, Varanasi gave a complaint to the committee alleging that on 28 June 2000 at about 1.00 p.m. when he was present at his house for lunch, Tehsildar (Sadar), Varanasi along with one Nayab Tehsildar and two collection Ameens came to his house, picked him, took him away in a jeep to Varanasi jail. He tried to make them understand in the way that he was known as Syed Ahmed alias Munna Babu and not the person against whom a recovery certificate was issued. The recovery certificate was issued against Munna son of Babu, resident of B-9/25 Mohalla Pheelkhan, Gauriganj, Varanasi. His son Kadeer Ahmed moved an

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59 Case No.36872/24/2003-2004
application before Tehsildar(sadar), Varanasi on 29 June 2000 and after verification of facts, he was released from jail after 4 days. Because of illegal detention, he was suffered mental torture and defamation.

D.M, Varanasi on 13 June 2003 reported that a recovery certificate was issued by the Labour Department against Munna Sari Kendra for recovery of Rs.60,000/- . Syed Ahmed alias Munna was arrested inadvertently. When facts came to light, he was released immediately. The responsible officials were punished by DM Varanasi.

According to the report of D.M. Varanasi that the complainant Syed Ahmed alias Muna was detained in civil prison in respect of recovery certificate issued against another person, this resulted in violation of human rights. The commission directed to state of U.P to show-cause why within four weeks payment of interim relief be not recommended to the petitioner U/S 18(3) of The Protection of Human Rights Act, 1993.

A.D.M (Finance and Revenue), communicated to D.M ,Varansi that a mistake was committed in the case in discharge of official duties as there was similarity in the names of the victim and the actual person both were residents of the same locality and mistake took place due to wrong identification.

The commission on 23 May 2006 declined the explanation given by the state authority and the Commission held that Syed Ahmed alias Munna was detained in civil prison in respect of recovery certificate issued against another person. Even if the said detention was the result of mistaken identity, the fact remained that the petitioner was wrongfully detained. The state cannot get rid off responsibility to compensate the petitioner for violation of his Human Right because of unjustified detention.

In the light of above The Commission recommended to the state Government U.P to pay Rs.10,000/- as immediate interim relief under section 18(3) of The Human right Act.

After receiving the compliance report the case was closed on 20 January 2007.

**Illegal Detention of Santosh by Chandigarh Police**

A news was published in Indian Express on 23 December 2006 titled “cops mix up identity jail woman for 14 days” and The Commission took cognizance on this news.

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60 Case No.36872/24/2003-2004
According to report, on 28 November 2006 head constable Ramjumar of Chandigarh police arrested one Santosh from Shiv colony in Karnal. Though the arrested woman, her husband Surjit Kumar and their neighbours pleaded her innocence but the police brought her to Chandigarh on presumption that she was the proclaimed offender in a liquor smuggling case. The police did not verify her husband and also did not verify her photograph with the real accused arrested six years ago on charges of smuggling liquor and declared proclaimed offender.

The Commission asked for a factual fact in respect of newspaper report from Administator U.T. Chandigarh, a report received is under consideration of the commission.

vii) Death in Police Firing

Death of Salman Dinkar Padvi in Police Firing: Maharashtra

Dinakar B. Padvi, Nandurbar, Maharashtra filed a complaint with the Commission alleging that on 28 June 2000 one leopard entered Khapar town in Taluk Akkalkua, Nan- Durbar, Maharashtra. Many people gathered to see it. The Police too tried to catch the leopard alive but as they did not succeed, they opened fire. According to the complainant, his son Salman Dinkar Padvi was seriously injured in the police firing and later succumbed to his injuries in the government hospital. The Commission called for a report from the Director General of Police, Maharashtra. The Deputy Conservator of Forests admitted to the fact that Salman Dinkar Padvi had died in the police firing. The Commission observed that simply it was an accidental death it did not absolve the State Government of its responsibility to pay immediate interim relief under section 18(3) of the Act. to the legal heirs of the deceased, who according to the complainant, was the only bread-winner of the family.

Considering the fact that the sole bread-winner of the family had died in the firing, the Commission directed that it be inquired from the Chief Secretary whether the State Government had given any relief – ex-gratia or otherwise- to the next of kin of the deceased and, if not, whether the Government was considering the grant of some monetary relief to the next of kin.

Superintendent of Police, Nandurbar, Maharashtra sent a report stating that the dependents of the victim Salman Dinkar Padvi had been granted relief of Rs. one

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61 Case No. 1332/13/2000-2001/FC
lakh from the Chief Minister’s Relief Fund and also confirmed disbursement of the amount. The Commission has since closed the case.

**Death of Sonali Bose in a Shoot out by Police in Agra: Uttar Pradesh**

The Commission took suo-motu cognizance of the news item titled “Again UP cops kill wrong target: student” and “Mistaken identity: Police shoots girl” which appeared in The Indian Express and the Statesman respectively on 18 July 2002. It was alleged that Sonali, a 2nd year Post Graduate student of S.N. Medical College in Agra was shot dead by the police on the Agra-Mathura road on 16 June 2002 when she and her friend were returning in a car to Agra. The Commission also received a complaint from Chinmoy Bose, father of late Sonali Bose praying for appropriate action against the delinquent policemen.

The Government of Uttar Pradesh stated that the life of Sonali Nandini Bose was brought to an end in a shoot out by the police due to negligence and over-enthusiastic action on the part of the concerned police officials. After considering all the facts and circumstances of the case, the Commission issued a notice to the State Government to show cause why an immediate interim relief of Rs. 5.00 lakhs be not granted to the next of the kin of Sonali Bose.

The Government of Uttar Pradesh informed the Commission that a sum of Rs. 25,000/- had been sanctioned to the family of the victim, and both departmental action as well as criminal prosecution, had been instituted against the delinquent police officials. However, the State Government considered the award of immediate interim relief of Rs. 5.00 lakhs to be on the higher side.

Not agreeing with the Government of Uttar Pradesh, the Commission held that the grant of Rs. 5.00 lakhs as immediate interim relief under section 18(3) of the Act in the admitted circumstances of the case was neither excessive nor unreasonable. The Commission, therefore, asked the Government to send a report on the action taken to the Commission.

The Government of Uttar Pradesh submitted a compliance report stating that Rs. 5.00 lakhs was sanctioned to the next of kin of the deceased, Sonali Bose. It also confirmed that all the three delinquent police officials were sent to judicial custody. Permission was also sought from the Ministry of Home Affairs for handing over the

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62 Case No. 13664/24/2002-2003-FC
case to the CBI. Since the State Government complied with the orders of the Commission, the case was accordingly closed.

**Killing of students in police firing in Meghalaya**

The commission took suo-motu cognizance on 4 October 2005 of a news item captioned “eleven students killed, ninety hurt in Meghalaya firing” in “The Pioneer" dated 1 October 2005. As per report, police opened fire in Jura and William Nagar district to suppress thousands of students protestors. The conditions of many of the injured was stated to be critical. The student rallies had been organised by the Garo Students Union to oppose plans by the state Govt. to shift the head quarters of Meghalaya Board of Secondary Education from Jura to Shillong.

The Commissioner and the Secretary vide letter dated 2 November 2005 submitted a report confirming the incident. It stated that a large crowd had gathered at Chandmari playground, Jura and Rongrengri Playground, Williamnagar at 11.00 a.m violating prohibitory order. The police declared the assembly unlawful and resorted to Lathi charge and use of tear gas, in relation to which the mob pelted stones causing injuries to the Magistrate and the police. Thereafter, the police resorted to firing, killing 4 civilians and injuring 18 at Jura, while 5 persons were killed and 22 injured in police firing at Williamnagar.

The report further stated that the Chief Minister along with his Cabinet colleagues visited and announced Rs. 5 lakh financial assistance to the heir of the deceased. A assurance also was given the cost of treatment on the injured would be born by the Government. The order of Magisterial inquiry was passed with direction that report to be submitted within 15 days. The State Government sanctioned an additional amount of Rs. 10 lakh at the disposal of the D.C, Jura for treatment of the injured.

On 26 April 2006, NHRC considered the report submitted by the State Government, which mentioned that the State Government has instituted a Commission of Enquiry under the Commission of Enquiries Act, 1952, headed by Justice (Retd.) T.C. Das to inquire into the incidents at Jura and Williamnagar. The commission found that the State Government had taken appropriate action in the matter, the report was taken on record and the case was closed.

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63 Case No. 10/15/2005-2006
viii) Fake Encounters

**Death of a Labourer in a Fake Encounter: Bihar**

Smt. Manva Devi gave a complaint to the Commission alleging that Assistant Sub Inspector Surender Paswan of Police Station Rivil Ganj, Chapra had dragged her husband out of their home and shot him dead. She added that her complaint was initially not registered by the Station House Officer (SHO) at Rivil Ganj Police Station but the FIR was lodged only on the directions of the Judicial Magistrate, Saran. The police, she stated, had tried to hush-up the case.

A report was received from the Director General of Police, Bihar stating that an investigation had been conducted by the Deputy Superintendent of Police (DSP), Saran and that the investigation indicated that the victim, Parsu Ram, was a dreaded criminal who was suspected in 10-12 criminal cases and against whom a case had been registered. The ASI Surendra Paswan had gone to arrest Parsu Ram under the instructions of the Inspector at Sadar Police Station. A chase had ensued and Parsu Ram had opened fire. ASI Surender Paswan had then fired in self-defence and Parsu Ram had died in the encounter. It was stated that a country-made pistol and three bullets had been found near the body of the deceased.

The Commission came to the view that this was, prime facie, a case of a death in a fake encounter. Further investigation by the Investigation Division of the Commission revealed that the complainant’s husband was a daily labourer who was staying with his family in District Saran (Chapra). He was not named in any of the cases referred to by the police and there was no merit in the contention of the police that Parsu Ram Nut was indeed Bacha Nut, who was involved in a number of criminal cases. In fact, the newspaper ‘Hindustan’ of 12 June 2000 had indicated that Bacha Nut was active in the area and was still engaged in his criminal activities. Moreover, there were independent witnesses who had seen ASI Surender Paswan dragging the victim out of his house by his collar. The investigation also confirmed that the complaint originally made by the complainant was not entertained by the police station and that the investigation suffered from a lack of impartiality. Indeed the police had submitted a final report seeking to close the case.

The Commission concluded that the State police had tried to hush-up the case and had given a false report. The Commission therefore directed the Director  

64 Case No. 3879/4/98-99
General of Police, Bihar, to ask the CBCID to conduct a fresh investigation of the case and to submit its report to the CJM. This was, prima facie, a case involving a fake encounter, the Commission considered it appropriate to award immediate interim compensation to the next-of-kin of the deceased under section 18(3) of the Protection of Human Rights Act, 1993. The Commission accordingly issued a show cause notice to the Government of Bihar asking why payment in the amount of Rs. 1 lakh should not be made to the next of kin of the deceased.

ix) Violation of Rights of SC/ST

Atrocities on Dalit Women in Bhandara Maharashtra

The Commission received a complaint from N.K. Sunare, an NGO wanted to show a shocking incident of gang rape and murder of four members of a Buddhist family of Khairlanji village, District Bhandara Maharashtra on 29 September 2006 by people of higher caste of the village. It was alleged that a mob of about 300 people with sharp weapons entered the house of Byaiyallal Bhotmange and dragged all four members of his family. They were allegedly paraded naked throughout the village. They also allegedly forced both sons of Byayallal Bhotmanage to have sex with their sisters and mother and on refusal they were beaten mercilessly and hacked to death. It was further mentioned that the main culprit and his 30 associates were not arrested as they were being protected by local powerful leaders. Taking cognizance, the Commission directed to handover the complaint to Chief Secretary and DGP Maharashtra to look in to the matter and to take necessary action and submit their comments within four weeks. DGP Maharashtra was also directed to ensure that necessary protection was provided to Mr. Byayallal Bhotmanage.

Response from Chief Secretary and DGP Maharashtra is still awaited.

Auction of Dalit Woman Panchayat President in Madurai :Tamil Nadu

The Commission on 20 November 2006 took cognizance of a news item captioned “Dalit Woman Panchayat President Auctioned for 2.16 Lakh in T.N Village” in Indian Express dated 19 November 2006. In Madurai Village, Kodikulam Balamani was auctioned on 18 November 2006 by Thevar (an upper caste) elders for Rs. 2.16 Lakhs to a farmer Karuppu Swami. When Balamani and her husband protested against the auction, angry villagers demanded to know if they could hand

65 Case No. 1107/13/2006-2007/WC
66 Case No. 802/22/2006-2007-WC
over Rs. 2 Lakhs the initial offer of a bidder. She was President of Panchayat because the post was reserved for a dalit Woman. According to the report, the village had decided that the highest bidder could use Balamani as a rubber Stamp for Signing agreements and other Contracts and take commission for herself. The Dalit Woman was auctioned despite her Pleas that she would hand over all her earning to the village Committee.

The Commission directed to the District Collector of Madurai to inquire the matter and a report was received in which all the allegations of the News were denied. The matter is under the consideration of the Commission.

**Burning to Death of a Dalit Rape Victim by the Accused in Madhya Pradesh**

The Commission took cognizance of a News item on 11 December 2006 Published in “The Indian Express” on 23 November 2006 in which a case was highlighted of Burning of a Dalit Girl who refused to drop rape charge against Rapist belonging to upper Caste of a village in Madhya Pradesh. According to the report, a 15-years old dalit girl who refused to drop rape charge against an upper caste youth was burnt alive by the alleged rapist, when she was sleeping at her home on 21 November 2006. The victim was allegedly raped in July 2006 and the matter is still pending in the court in Hoshangabad. The victim succumbed to death by burn injuries and in her Dying Declaration at a hospital in Pipariya told that Chhote Singh Rajput had threaten to kill her if she did not change her statement in the court. Victim’s mother Shashibai stated that the accused had warned them on 21 November 2006 in the afternoon that he would burn them, set there house afire and cut the victims father into pieces. The victim’s Aunt Anita stated that she saw the accused Chhote Singh escaping into the fields. The allegations were denied by the upper caste people.

The Commission issued notice to DGP, Madhya Pradesh, calling for a report within four weeks and also directed to inform inform the Commission whether any Compensation was paid to the victim when she was alive or to the next of Kin of the deceased after her death.

SP, Hoshangabad, Madhya Pradesh reported to the Commission that case FIR No. 573/06 under section 307 IPC 3(2)5 S.C/S.T. Act was registered at P.S Pipria and after the death of the victim Section 302 was added. The accused was arrested

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67 Case No. 1486/12/2006-2007/WC
on 23 November 2006 and sent to jail. A cheque of Rs.75,000/- was given to the father of the victim as interim relief. A challan has also been filed in the court on 27 December 2006.

As a further interim relief of Rs.75,000/- under the provision of SC/ST Prevention of Atrocities Act had also been sanctioned and the law set into motion, the case closed on 27 March 2007.

x) Rights of Juvellines

Condition of Child inmates in Juvenile Home, Meerut: Uttar Pradesh

The Commission on 26 September 2005 took suo-motu cognizance of a news item published in" Amar Ujala" on 21 September 2005, captioned “Masoomo Ke Liya Kale Pani Se Kam Nahin Jail”. According to the news item, 59 child accused were taken to the Meerut court for appearance before the magistrate on 20 September 2005. The van carrying 59 children was parked in an open area outside the court premises under direct sun for five hours and the inmates were not given food and water. The condition of jail is more disturbing. Total capacity of jail is 50 whereas on 19 September 2005 there were 118 inmates. They were being given rotten food and contaminated water. In jail there is only one teacher who teaches only half an hour and they have no books to read.

It is serious issue about violation of Child Rights the Commission directed its investigating team to visit Govind ashram located at Juvenile court Saket. The team inquired about the factual allegations contained in newspaper within two weeks.

A team of two officers of the Investigation Division conducted an inquiry and reported that Women and child Development Deptt. Govt. of U.P had abolished juvenile Home of Distt. Ghaziabad, Bulandshar, Baghpat and Gautam Budh Nagar. The Juveniles of these home were shifted to Meerut Juvenile Home which had 30 sanctioned strength but now its present strength is 116. Which caused a problem of over crowing and related problems like lack of proper food and water. The District judge on 19/6/2005 shifted the juvenile court from juvenile Observation Home Sake tot the collectorate Building in Meerut.

The enquiry team in their report concluded that:

a) On the basis of inquiry the news published in the newspaper was true CJM Meerut had already taken cognizance, personally summoned reserve

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68 Case no. 19884/24/2005-2006
inspector and directed him to shift the court from Saket to collectorate building. The CJM had also written SSP Meerut for provision of proper transportation facilities for juveniles.

b) During inquiry it was found that food and water was provided to the juveniles at Juvenile Home Saket before arrival at the court. The CJM Meerut had written to the district judge Meerut for provisions of judicial Lock up, which had facilities of water and toilets for Juveniles at the Collectorate Building, Meerut.

c) During inquiry Chief Medical Officer Meerut assured that one medical officer will visit the juvenile observation home Meerut twice a week. basic Shiksha Adhikari(BSA) Meerut assured that they will provide one primary teacher for the juvenile observation home to provide basic education to the juveniles. The District Probation Officer, Meerut has assured that they will provide vocational training to the juveniles for manufacturing cricket bats. For this they will take help of NGO’s and concerned industries.

d) The Commission considered the report with a further spot investigation report in the light of assurance before the inquiry team. Action taken report called from the Chief Secretary, Government of U.P is awaited.

Violation of human rights inmates of juvenile home

The hon’ble Supreme Court of India vide its order dated 1 December 2006 referred to the commission a matter relating to sexual abuse of inmates/young girls at Balananth Ashram, Ghaziabad

For compliance the order of the Apex Court, the Commission vide proceeding dated 1 December 2006, directed DG(I) to depute a team to inquire into the matter and submit actual position .The team of the Investigation Division of the commission visited Balananth Asharam, Ghaziabad as well as Rajkia Bal Grah (Shishu) Mathura and conducted the inquiry on December 2006. The team submitted the report on 4 December 2006. After going through the report the commission vide proceeding dated 5 December 2006 directed to place the same before the Hon’ble Supreme Court of India. The Supreme Court of India after considering the report again directed the NHRC to send its team by 12 December 2006 for the purpose of:

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69 Case No.35707/24/2006-2007-WC
a) Examination of inmates;

b) Identification of mentally ill inmates with the assistance of psychiatrist at the earliest and to suggest measures for their shifting to suitable homes;

c) Obtain complete Medical examination record of the victim inmates;

A team of four of the investigation Division visited Rajkiya Bal Grah (Shishu) Mathura on 12 December 2006 and submitted a detailed report.

After consideration of the suggestions the Commission directed the DM Mathura and in-charge of Rajkiya Shishu Sadan to shift 25 inmates to other Homes/institutions. Team reported that one inmate Neha was suffering from borderline mental retardation, the Commission directed to keep her at Mathura in the company of her sister and directed the in-charge to take special care of her and get her regularly examined by a psychiatrist. It was further reported that there was no Doctor or Psychiatrist posted in Nari Nikatan, Bareilly or Rajkiya Shishu Sadan Mathura. The Commission directed the DM’s to ensure the service of a Doctor and a Psychiatrist are regularly made available. On the issue procedural delay in sanction of fund for Nari Nikatan at Bareilly, the Commission directed the Director Mahila Kalyan Vibhag, Lucknow to ensure the inmates are not made to suffer for want of funds.

The Commission has also called for action taken reports from In-charge Rajkiya Shishu Sadan Mathura, Medical Superintendent Institute of Mental Health and Hospital Agra, In-charge Nari Niketan Bareilly, DM Mathura, DM Bareilly and Director Mahila Kalyan Vibhag, Lucknow. Reports are awaited.

The matter is under consideration in the Hon’ble Supreme Court.

NHRC Takes Note Of Inhuman Conditions In Prisons on17th July, 2003

According to a survey conducted by the National Human Rights Commission (NHRC) the prisons of Delhi, Chhattisgarh and Jharkhand are the most crowded ones while Rajasthan and Jammu and Kashmir have fewer prisoners. Delhi’s jails are brimming_ with 217 per cent "overcrowding" _ most of the inmates being under trials. The survey revealed that Arunachal Pradesh has no prison while the Union territory of Lakshadweep offers an ideal situation where only 16 prisoners, the exact permitted numbers, have been lodged.

70 See www.indlaw.com visited on July 5, 2011.
The Chairman of the National Human Rights Commission (NHRC) Chairman Justice A.S. Anand stated, "Overcrowding throws every system out of gear and is found to be the root cause of the deplorable conditions in our jails."

Justice Anand has written letters to the chief justices of all high courts suggesting regular holding of special courts in jails and their monitoring by either the chief justices themselves or a senior judge.

Asking the Judiciary to address this problem, Justice Anand has proposed fast track courts to be held inside the prisons for the benefit of the under trials, which alone will help decongest the prisons.

Indian prisons, according to the Commission, have about 31.2 per cent overcrowding with the prison population in states like Delhi, Jharkhand, Chhattisgarh, Gujarat, Haryana and Bihar exceeding by two to three times its total capacity.

The survey reveals that of the three lakh prisoners in India about 75 per cent are under trials, an area of concern for the Commission. According to Mr. Anand, despite repeated directions from the Apex court there has been no improvement in the situation. He mentions that: "Slow progress of the cases and operation of the bail system to the disadvantage of the poor and illiterate is responsible for the plight of others who continue to suffer all the hardships of incarceration although their guilt is yet to be established."

The Commission chairman has proposed a four-track strategy to deal with the situation. Besides special courts to be held inside jails, and also wants the Courts to release under trials on personal surety bonds, in case of self-confessed first timers and petty offenders.

G) **Sum-up**

After going through the whole discussion in this chapter we find that the structure of the Commission shows, it is a fully independent body and based on two conceptual pillars, i.e, autonomy and transparency. From the establishment of the NHRC, it played very important role to protect the Human Rights in the functions of Criminal Administration of Justice. After going through the cases decided by the NHRC mentioned in this chapter we find that the Commission many times took action on the various complaints by the affected person, on the information received from the states mechanism, took action on the demand of NGO’s, conduct
investigation on the direction of the Supreme Court and many a times took suo motu action on the News published in the various News papers.

Therefore being a recommendatory and investigatory body, the recommendations of the commission are of great importance to the Government in order to make up its mind as to what legislative or administrative measures should be adopted to eradicate the evil found or to implement the beneficial object it has in view.

The creation of a National human Rights commission in India can be an important mechanism to strengthen Human Rights protection but can never replace nor should it in any way diminish the safeguards inherent in comprehensive and effective legal structure enforced by an independent, impartial and accessible judiciary.

**The cases disposed of by the Commission during the years 2001 to 2007 of various nature are as follows.**

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<th></th>
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<tbody>
<tr>
<td>Atrocities on Sc/ST</td>
<td>462</td>
<td>542</td>
<td>160</td>
<td>593</td>
<td>274</td>
<td>330</td>
</tr>
<tr>
<td>Jail Conditions</td>
<td>169</td>
<td>229</td>
<td>120</td>
<td>164</td>
<td>106</td>
<td>127</td>
</tr>
<tr>
<td>Lack of Medical Facilities in Jail</td>
<td>44</td>
<td>14</td>
<td>51</td>
<td>61</td>
<td>33</td>
<td></td>
</tr>
<tr>
<td>Harassment of Prisoners</td>
<td>434</td>
<td>81</td>
<td>179</td>
<td>152</td>
<td>161</td>
<td></td>
</tr>
<tr>
<td>Rape of Woman</td>
<td>400</td>
<td>176</td>
<td>392</td>
<td>453</td>
<td>332</td>
<td></td>
</tr>
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<td>Other Police Excesses</td>
<td>4638</td>
<td>9622</td>
<td>2344</td>
<td>6488</td>
<td>4248</td>
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<tr>
<td>Alleged Fake Encounters</td>
<td>118</td>
<td>34</td>
<td>84</td>
<td>45</td>
<td>89</td>
<td></td>
</tr>
<tr>
<td>Unlawful Detention</td>
<td>2983</td>
<td>472</td>
<td>876</td>
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<td>1975</td>
<td>612</td>
<td>188</td>
<td>210</td>
<td>183</td>
<td>155</td>
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<td>Custodial violence</td>
<td>1117</td>
<td>706</td>
<td>1</td>
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