

Record of the Discussion and Key Recommendations emanating from the Meeting of NHRC and State Human Rights Commissions (SHRCs) and Nodal Officers of States where SHRCs have not been set up – held on 17 February 2017 at IIC, New Delhi

The Meeting of the National Human Rights Commission (NHRC) with the State Human Rights Commissions (SHRCs) and Nodal Officers of States where SHRCs have not been set up, was held in the India International Centre, New Delhi on 17.02.2017 under the Chairmanship of Justice Shri H L Dattu, Chairperson, NHRC.

2. The Meeting began with the Secretary General, NHRC, welcoming the Chief Guest, Justice Shri Dalveer Bhandari, Member of the International Court of Justice, Chairpersons, Members, Secretaries and other representatives of the State Human Rights Commissions (SHRCs) and Nodal Officers from States which do not have SHRCs, to the Meeting. The Secretary General stated that the Meeting was yet another step in the direction of forging closer ties, cooperation, and understanding between the NHRC and SHRCs in furtherance of their joint mandate for human rights protection and promotion.

3. Chairperson, NHRC, Justice Shri H L Dattu stated that one of the key motivations for India's law makers to establish the NHRC and SHRCs under the Protection of Human Rights Act, 1993 was the protection and promotion of the inviolable rights of the people of India. The powers bestowed upon these Commissions as well as the broad and inclusive definition of human rights contained in the PHR Act, 1993 mandate the NHRC and SHRCs to address the whole range of civil, political, social, economic, and cultural rights.

4. The Chairperson added that the NHRC regards SHRCs as vital partners in actualizing the shared vision for guaranteeing to each person – freedom, justice and equity. The NHRC has therefore, taken numerous initiatives to strengthen and improve the operational capacities of State Human Rights Commissions. The Commission has also been holding regular interactions with State Human Rights Commissions as well as nodal officers for human rights of states where these Commissions are yet to be established. These meetings have served as an important platform for the NHRC and SHRCs to discuss issues of mutual human rights concern and share best practices, in addition to delineating areas for mutual cooperation and action towards more effective human rights protection in the country.

5. Chairperson, NHRC stated that the Commission had attempted to draw up an agenda for the NHRC-SHRC Meeting which was broad-ranging and which would attempt to address several issues of concern to both, the NHRC and SHRCs, including the matter concerning suitable amendments to the PHR Act to lend greater power to the decisions of these Commissions as well as greater financial and functional autonomy to enable these Commissions function more effectively. Another objective of the Meeting would be to deliberate upon other important concerns regarding human rights defenders, promotion of human rights through training and awareness programmes, as well as sharing of best practices of the NHRC with SHRCs, particularly in the area of conducting inquiries and investigation. Chairperson, NHRC expressed hope that the deliberations over the course of the various Sessions of the Meeting would help explore potential areas of co-operation and coordination between NHRC and SHRCs.

6. The Chief Guest, Justice Shri Dalveer Bhandari, in his address stated that the principle of 'universality' is the cornerstone of human rights. This principle was first emphasized in the Charter of the United Nations in 1945 and re-iterated through the adoption of the Universal Declaration on Human Rights (UDHR) in 1948.

7. He added that the Preamble to the Constitution of India is also premised on the principle of the dignity inherent in all human life. The aspirations of India's founding fathers found expression in Part III of the Constitution on 'Fundamental Rights' which were similar in spirit to the rights enshrined in the UDHR. Thus, human rights form one of the cornerstones of all policies and practices of good governance and notions of equity and justice.

8. Justice Bhandari expressed his appreciation for the role that NHRC and SHRCs have played in the protection and promotion of human rights, reflected in the increase in the number of complaints received by the NHRC since its inception. He added that this highlights not only the growing awareness among the citizens regarding their rights, but also the faith and trust that the NHRC has managed to establish among the people.

9. However, Justice Bhandari emphasized that there is need to further strengthen these Commissions, especially the SHRCs to enable them function more effectively. He suggested to the Chairperson, NHRC to organize a meeting of the Chairpersons and Members of the NHRC and SHRCs with the Union Home Minister and Chief Ministers of all States so that there may be greater awareness regarding the important role of SHRCs in safeguarding human rights and their overall contribution to better governance.

## **AGENDA**

### **SESSION 1 - Amendments to the PHR ACT, 1993**

**Chair: Chairperson, NHRC**

**Co-Chair: Chairperson, Rajasthan SHRC, Justice Shri Prakash Tatia**

The First Session was devoted to discussing the agenda concerning amendments to the PHR Act, 1993, received from SHRCs of Karnataka, Kerala, Maharashtra, Odisha, Tamil Nadu, and Tripura. Each of the SHRCs explained their concerns as well as suggestions for amending the PHR Act. This was followed by a discussion and the drawing up of specific recommendations concerning amendments to the PHR Act.

The Chairperson, NHRC informed that the Commission has sent proposals for amendment to Sections 2(1)(f), 3(3), and 21 to MHA, GoI for necessary action. In addition, the Commission has also drafted and sent the 'Protection of Human Rights (Amendment Bill), 2015' regarding Section 30 of the PHR Act, 1993 to the MHA, GoI. The Commission is regularly pursuing with the Government of India for early amendment of the Act as suggested by the Commission.

The Chairperson, NHRC responded to each of the suggestions of SHRCs regarding amendments to the Act. Based on the discussion and deliberations, the following key recommendations emerged:

1. The NHRC must again take up with the MHA, Government of India regarding the proposals for amendment of the PHR Act, 1993, as already submitted.

2. It was suggested that the recommendations of the NHRC and SHRCs must be mandatorily accepted and complied with by the Central and State governments as these recommendations are in the nature of 'directions' which are required to be accepted by concerned government authorities. Therefore, the term 'recommendations' must be replaced by the term 'directions' in all relevant Sections within the PHR Act 1993.

It was agreed that an Amendment be made to the PHR ACT, 1993 to the effect that unless challenged in the concerned State High Court or Supreme Court as the case may be, which may then set aside the recommendation made by the NHRC or SHRCs, the recommendation made has to be complied with/accepted by the concerned authorities.

3. Section 24 (1) must be amended in line with Section 24 (2) which provides for re-appointment of a member of the SHRC for a second term of five years. The same provision must be extended to the Chairpersons of SHRCs.

4. Section 21(1) of the PHR Act 1993 must be amended to read 'A State government shall' (instead of 'may') constitute a body...' on the lines similar to Section 3 providing for NHRC mandatorily. Similarly, Section 30 of the PHR Act, 1993 wrt to Human Right Courts must be amended to read as: 'The State government shall (instead of 'may') with the concurrence...'

5. It was agreed that for the appointment of Members, an amendment be made to the PHR Act, 1993 to the effect that the Chairperson of the NHRC/SHRCs as the case may be, must be made a Special Invitee to the Selection Committee.

6. There is a need to amend Section 19 of PHR Act, 1993 which relates to the 'Armed Forces'. The said section must be amended in a manner which makes it necessary for the submission of not only the Action Report, but submission of all relevant documents and material on the basis of which the authorities have arrived upon a particular conclusion with respect to a case of human rights violation committed by its personnel.

7. There must be suitable amendments to the provision concerning recruitment of officers and staff of the Commissions, to provide for a certain minimum percentage of posts for women.

8. A limit must be set through an Amendment in the PHR, Act 1993 on the time frame of six months for finalization and notification of service recruitment rules for the staff and officers of the NHRC and SHRCs by the Central and State governments.

9. Section 40(B) of the PHR Act, 1993 as amended in 2006, empowers the NHRC to formulate regulations. However, similar powers have not been bestowed upon SHRCs. An amendment to Section 41 therefore, is required to extend/grant similar powers to SHRCs regarding formulation of regulations to carry out provisions of the Act.

## **SESSION 2 – Functional and Financial Autonomy & Issues regarding Human Rights Defenders**

**Chair: Chairperson, NHRC**

**Co-Chair: Chairperson, Tamil Nadu SHRC, Tmt. Justice T. Meenakumari**

The Second Session was devoted to discussing the agenda concerning functional and financial autonomy of NHRC and SHRCs as well as issues concerning Human Rights Defenders (HRDs), received from SHRCs of Himachal Pradesh, Karnataka, Tamil Nadu, Uttar Pradesh, Uttarakhand, West Bengal, Odisha, and Maharashtra.

Chairperson, NHRC informed that the recommendations of the Justice Mathur Committee which was set up to look into the issue of evolving a basic structure, minimum manpower, and financial requirement of SHRCs, were sent to the Chief Ministers of State Governments and the then Hon'ble Prime Minister of India. He added that the Commission has been following up the matter with the Government of India.

Based on the discussion and deliberations during the Session, the following key recommendations emerged:

- 1) It was decided that the Chairperson, NHRC will again write to all State Governments requesting them to fill up vacancies for Chairperson, Members and other staff and officers in SHRCs.
- 2) It was decided that the Chairperson, NHRC will write to all State Governments requesting them to draft service/recruitment rules and notify these at the earliest to enable SHRCs fill up vacant posts for officers and staff.
- 3) It was decided that the Chairperson, NHRC will again write to the Central Government and all State Governments regarding implementation of the recommendations made in the Justice Mathur Committee Report regarding financial, manpower, and functional requirement of SHRCs with a view to strengthening of the SHRCs.

4) On the issue of insistence of balance sheet by Accountant General in case of Karnataka SHRC, it was decided to involve the State Government Expenditure Secretary to find a solution.

**SESSION 3 - Training and Awareness programmes, Complaint Management System, and other miscellaneous issues**

**Chair: Chairperson, NHRC**

**Co-Chair: Chairperson, Uttar Pradesh SHRC, Justice Shri S Rafat Alam**

The Third Session was devoted to discussing the agenda concerning Training and Awareness programmes, Complaint Management System, and other miscellaneous issues received from SHRCs of Assam, Karnataka, Kerala, Odisha, Maharashtra, Tamil Nadu, Uttar Pradesh, Gujarat, and Haryana.

Chairperson, NHRC informed that the Commission has been organising training programmes for government officials, field functionaries and representatives of NGOs, Universities etc. to encourage them to make a rights-based approach central to their work and activities. The aim is to sensitise them regarding the human rights issues and make them aware of their duties to protect and promote the rights of people of the country especially the common people.

Chairperson, NHRC added that the Commission has a separate Training Division, whose core task is to generate human rights awareness among various sections of society. The Training Division of the Commission, besides organizing awareness generation programmes on human rights also collaborates with Administrative Training Institutions, Universities, NGOs and



Police and Judicial training institutions/academies to organize training programmes to enable them inculcate a rights-based approach. This has greatly increased the Commission's reach, thus, providing a further impetus to human rights literacy and awareness in the country.

Based on the discussion and deliberations during the Session, the following key recommendations emerged:

1. There is a need for human rights sensitization, particularly for judicial officials and other members of the judiciary. It was suggested that in the various training programmes conducted by National and State Judicial Academies, the NHRC and SHRCs may be provided a specific slot to conduct a human rights sensitization workshop/training programme.
2. It was suggested by several participant SHRCs that whenever training programmes / workshops are organized by the NHRC in any part of the country, the SHRCs may be invited/intimated regarding the same-so that they may also participate in these programmes. It was accordingly decided that the NHRC would provide information to all SHRCs regarding the various training/sensitization programmes which the NHRC organizes from time to time across the country.
3. The NHRC will provide its priced as well as non-priced publications to SHRCs for the purpose of distribution/dissemination. SHRCs will send written request/communication to the NHRC detailing the publications, number of copies, etc, required by them.
4. It was decided that proposals for research activity requiring NHRC assistance may be sent in writing by SHRCs to the NHRC and the Full Commission will take a decision on the proposals received from SHRCs.

5. The NHRC is ready to train the staff and officers of SHRCs in areas like investigation, research, IT, etc wherever required by SHRCs. In this regard, SHRCs may send a written request to the NHRC regarding training of their staff and officers.

6. As regards implementation of CMS software, while few SHRCs have started using the CMS software provided by NIC, Sh Shashi Kant Sharma, Technical Director, NIC intimated that he has created the CMS software instances for the SHRCs who have recently requested NIC/NHRC. These SHRCs need to provide master data, logo, photographs etc. for progressing on the implementation. Other remaining SHRCs were requested to contact Sh Shashi Kant Sharma for providing the CMS software.

7. It was further suggested that it might be useful to work towards building uniformity in the codes which are used for registration of cases across NHRC and SHRCs.

8. As regards duplication in the registration of complaints by NHRC and SHRCs, Sh Shashi Kant Sharma, Technical Director, NIC conveyed that the Human Rights Commissions Network (HRCNet) has been developed using Cloud Technology which is accessible using Internet and can accommodate all SHRCs. Using HRCNet, duplicity of complaints-registration could be checked automatically at the stage of case-registration itself. For utilizing this facility, SHRCs need to get onboard the HRCNet with the assistance of NIC. Contact details of SH Shashi Kant Sharma were shared with all SHRCs during the presentation.

9. NIC was requested to take necessary actions for smooth running of software (CMS and HRCNet), backup of software and databases for NHRC and

all onboard SHRCs and to create proper mechanism for disaster management to avoid any disruption in the working of software.

10. It was suggested that the mechanism of camp sittings and open hearings instituted by the NHRC can be emulated by SHRCs towards more effective disposal of complaints and redressal of human rights violations.

11. It was pointed out by an SHRC that in certain cases when the NHRC transfers cases to SHRCs for expeditious disposal, the records/documentation sent by the complainant do not get transferred to the respective SHRC along with the complaint. Chairperson, NHRC explained that this may not be true since cases are transferred at early stage. However, if still there are some such cases, SHRCs should send a written communication through fax and/or post requesting for the transfer of such documents to the SHRC.