



HUMAN RIGHTS NEWSLETTER

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Conference on Vulnerability, Legal Protection and Human Rights of Domestic Workers

The National Human Rights Commission, NHRC India organised a conference on 'Vulnerability, Legal Protection and Human Rights of Domestic Workers' on 16th April, 2021. Mrs. Jyotika Kalra, Member, NHRC chaired it. The objective was to provide insulation to the rights of domestic workers in the existing labour legislations.

The conference was divided into three thematic sessions as follows: -

- Locating domestic workers within Indian legislation and policy frameworks
- Domestic workers in India; discussion on issues and challenges and their socio-economic status, vulnerability and violence
- Regulation of domestic work; a way forward



NHRC Member, Mrs. Jyotika Kalra chairing the conference

Some of the important recommendations, among others, that emerged during the discussions were as follows: -

- **Centralised Database for Domestic Workers:** Ensure establishment of national portal for registration of domestic workers. State municipalities

or state social welfare boards may be given the responsibility to regulate such registrations and follow the Supreme Court directive of 31st January, 2019 for registering 10% domestic workers every month;

- **National Policy for Domestic Workers:** There should be a

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“ You must not lose faith in humanity. Humanity is like an ocean; if a few drops of the ocean are dirty, the ocean does not become dirty”— Mahatma Gandhi

- National Policy regulating the holistic working conditions of the domestic workers and this should be done under the purview of labour laws;
- **Expand the Mandate of Existing Social Security Scheme:** These may include expansion of the Rashtriya Swasthya Bhima Yojna and the National Health Insurance Scheme to cover domestic workers;
 - **Access to Social and Financial Insurance during Pandemic:** During the pandemic, domestic work should be recognised as ‘essential services’ and social and financial insurance shall be made available by the registered placement agencies or under Disaster Management Act, 2005;
 - **Domestic Workers’ Unions:** Ensure registration of domestic workers trade unions by the district municipalities and their subsequent representation in the Welfare Boards;
 - **Registration of employers and imposition of penalty:** The State should make a provision for the registration of employers along with the domestic workers. Penalties may be imposed on non-compliant employers;
 - **Sensitization of Law Enforcement Agencies:** The law enforcement agencies need to be sensitised to curb the issue of unnecessary criminal intimidation of domestic workers;
 - **Ratification of ILO Convention on Domestic Workers, 2011:** India should address the gaps in the national legislative framework and subsequently ratify the International Labour Organization, ILO Convention on domestic workers.
- The conference was attended by the representatives of the National Commission for Schedule Castes, International Labour Organization, independent experts and civil society organizations and senior officers of the Commission.

Suo Motu Cognizance

The Commission took suo motu cognizance in one case of alleged human rights violations reported by media during April, 2021 and issued notices to the concerned authorities for reports. Summary of the case is as follows:-

Alleged Police Atrocity Case No. 11498/24/1/2021

The media reported that the police allegedly snatched an

Oxygen cylinder from a 17 year old boy, who had somehow arranged the same for his critically ill mother undergoing treatment at Upadhyay hospital in Agra, Uttar Pradesh. Allegedly, the police personnel took away the cylinder as the same was required by some very important person. The Commission has issued notices to the District Magistrate and the Senior Superintendent of

Police of Agra, Uttar Pradesh calling for a detailed report in the matter. The report is expected to include health condition of the patients admitted in the Upadhyay Hospital including the mother of the victim mentioned in the media reports along with status of Oxygen supply and action taken against the public servants, allegedly, responsible for the incident.

Important Successful Interventions

Release and rehabilitation of a minor bonded labour girl (Case No. 34456/15/24/6/2020)

The National Human Rights Commission, NHRC India, contrary to the initial reports from the public authorities in Telangana, has found

that a minor girl from Odisha was kept as a bonded labour at a brick kiln in Hyderabad, as her mother could not repay the money borrowed from an agent of the brick kiln owner and died due to illness. The Commission has asked the District Magistrate, Telangana

to issue her release certificate and start the process of her rehabilitation. The Chief Secretary, Government of Telangana has been directed to get enquired why the Assistant Commissioner of Labour, Hyderabad did not associate the complainant and

record the statement of the victim before sending the report to the Commission.

Earlier, in a response to the notices of the Commission, the Assistant Labour Commissioner, Hyderabad had submitted a report stating that the mother of the girl went to Odisha in February, 2020 after borrowing Rs. 32,000/- for her treatment. She passed away on 04.05.2020. Her daughter could not go due to the lockdown. She could go to Odisha on 29.05.2020 after she got the movement pass. Rs. 2,000/- were also paid to her as return journey allowance, as per the provisions of Inter-State Migrant Workers Act.

However, the Commission found it difficult to believe that a minor daughter would leave her sick mother alone and stay back at the brick kiln. The Commission also observed that the authorities had not taken the statement of the victim girl to ascertain whether the statement of the employer was correct or not. Therefore, the District Magistrate, Hyderabad and the District Magistrate, Nabarangpur, Odisha were directed to enquire into the matter afresh and submit a detailed report to the Commission.

The Commission, considering the material on record, held that the victim could not return to her village despite death of her mother, as her employer did not allow her to leave the place. She had been forced to work till the settlement of advance taken by her mother. She returned only with the help of the Local Public Representatives, District Administration and State Labour Machinery in the month of June, 2020. The Commission

observed that the victim appeared to have been forced to do the work till the settlement of the advance payment.

Imprisonment in mistaken identity (Case No. 34115/24/6/2017)

The National Human Rights Commission, NHRC India, having not received any response from the Government of Uttar Pradesh to its show cause notice in the matter of the arrest and imprisonment of a person on mistaken identity, has recommended to the State, through its Chief Secretary, that action should be taken for the release of the victim with dignity, and he should be paid Rs. 3 lakhs as relief for violation of his human rights. Besides, the DGP, Uttar Pradesh has been asked to submit a report on the action taken against the erring police personnel, who arrested the victim without verifying his identity.

The Commission had registered the matter on the basis of a complaint by the victim alleging that he was undergoing imprisonment for more than four years in place of one Julum Sharma in case no 347/2000 u/s 147/148/149/506/302 IPC. The police had failed to arrest the real culprit and had instead arrested the complainant.

The Commission on enquiry, through its Investigation Division, found that an FIR 347/2000 u/s 147/148/149/302/506/34 IPC was registered against 5 accused in District Azamgarh. The four accused persons were acquitted by the Court in the year 2002. However, the complainant was arrested in the case vide non-bailable warrant after 13 years of registration of an FIR by the

police, projecting the complainant as Julum Sharma. However police failed to establish how complainant Singhasan Vishwakarma was Julum Sharma. It was a clear case of negligence by the police.

The Commission observed that even the Judicial Officer also did not verify the true identity of the victim and sent him behind the bars. The Commission has also directed its registry to send a copy of its proceeding in the matter to the Chief Justice of Allahabad High Court for appropriate action.

Non-availability of ambulance results in the death of mother and the new born (Case No. 4305/18/29/2018)

Allegedly, a woman, in the advanced stage of her pregnancy, could not find an ambulance to reach timely for the delivery of her child at Community Health Centre, Mathili on 10.09.2018. As a result, both the mother and the new born died. Pursuant to the directions of the Commission, the Collector and District Magistrate, Malkangiri, Odisha, informed that the woman had given birth to a still-born baby and after delivery, her haemoglobin was very low at 3.8 grams. She was immediately referred to the Department of Health and Hospitals, Malkangiri, but died even before she could be shifted.

It was reported that the victim could have been saved, if adequate precaution had been taken by the field staff of the Medical and Integrated Child Development Scheme, ICDS during her pregnancy. For this, action was taken against the two Auxiliary Nurse Midwives, two Sector Supervisors of ICDS and the

concerned Anganwadi workers, who failed to perform their duty properly.

The Commission, having received no response to its show cause notice, has recommended that the Govt. of Odisha pay Rs. 2 lakhs as relief to the NoK of the deceased for the negligence by the officials of the State Govt.

Death due to starvation (Case No. 1356/34/4/2017)

On the firm view of the National Human Rights Commission, NHRC India in a case of death due to starvation, the Government of Jharkhand has finally paid the recommended monetary relief of one lakh rupees to the NoK of the deceased for violation of human rights, as he had neither food nor the Ration Card.

The case was registered on the basis of a complaint, supported by a media report dated 21.10.2017, that a labourer had died in Dhanbad District due to starvation, as he was not provided a Ration Card.

In response to the notices of the Commission, the State authorities had claimed that the victim had

died due to disease and not because of starvation/hunger. It was also claimed that the Ration Card was issued to the victim's family.

The Commission on the basis of material on record observed that the report by the State Government did not mention the disease of the victim leading to his death. It also observed that the victim's family had applied for the Ration Card twice on 22.09.2017 and again on 18.10.2017 but the Ration Card was made available on 25.10.2017, after the death of the victim.

The Commission also observed that when it recommended the relief of one lakh rupees, the State Government without further verifying the facts submitted the same reply as earlier. Hence, it was not accepted and the recommended monetary relief was reiterated.

Food poisoning of school children (Case No. 1680/18/10/2018)

The persistence of the National Human Rights Commission, NHRC, India resulted in the Government of Odisha paying Rs 8 lakh in a case of food poisoning to 15 children in

a government school in Maliguda. Out of this, Rs. 50,000 each were paid to the 14 students, who fell sick and Rs. 1 lakh to the mother of the boy, who succumbed to illness. For negligence, 2 teachers were put under suspension and departmental proceedings were initiated against them. The complaint was received about the incident on 20th Jan, 2018.

Earlier, in response to the notices of the Commission, the reports from the State Govt. revealed that an ex-gratia of Rs.2 Lakh was already sanctioned by the Collector for the payment to the NoK of the victim. Punitive action was initiated against the 2 teachers for the negligence.

Subsequently the Commission issued a notice to the Chief Secretary, Govt. of Odisha to show cause why a sum of Rs.1 Lakh should not be recommended to be paid to the Next of kin of the deceased student in addition to the ex-gratia of Rs.2 Lakh already sanctioned by the Collector.

Pursuant to the directions of the Commission, the Govt. of Odisha submitted the compliance report along with the proof of payment.

Cases of Human Rights Defenders

The Commission registered 3 cases of alleged harassment of Human Rights Defenders, during the month of April, 2021. Summaries of these cases are as under:-

NIA raid on HRDs Case No. 579/36/2/2021

Allegedly, the National Investigating Agency (NIA) raided 25 Human Rights Defenders, HRDs in Telangana and Andhra Pradesh,

in breach of their fundamental rights of association, assembly, expression and opinion.

The Commission has transmitted a copy of the complaint to the Secretary, Union Ministry of Home Affairs to take appropriate action within eight weeks, associating the complainant and to inform him of the action taken in the matter.

Illegal detention and torture

Case No. 611/34/1/2021

Allegedly, a Human Rights Defender Gulab Chonde was picked up from his residence, tortured, illegally detained for four days and falsely implicated in an old case, in breach of the direction of the Supreme Court in D.K. Basu case and his fundamental rights. The Commission has asked S.P., Bokaro to submit an action taken report in the matter.

Police atrocity**Case No. 934/25/11/2021**

Allegedly, the West Bengal Police made use of disproportionate

force to disperse a peaceful agitation by people against corruption etc. A Human Rights Defender Maidul Islam Midda was beaten by police with boots etc. due

to which he died. The Commission has asked the Commissioner of Police, Kolkata to submit an action taken report in the matter.

Recommendations For Relief

A part from the number of cases taken up daily, one case was heard by the Full Commission and two by Double Bench in April, 2021. The Commission recommended monetary relief amounting to a total of Rs. 31,00,000/- for the victims or their NoK in the 14 cases, where it found that public servants had either violated human rights or been negligent in protecting them. *The specific details of these cases can be downloaded from the NHRC website by logging the case number given in the table below:*

Sr. No.	Case No.	Nature of Case	Amount	Authority
1	2222/18/3/2019-JCD	Custodial Death (Judicial)	200000	Odisha
2	15345/24/54/2019-JCD	Custodial Death (Judicial)	200000	Uttar Pradesh
3	18627/24/7/2014-JCD	Custodial Death (Judicial)	300000	Uttar Pradesh
4	34290/24/54/2016-JCD	Custodial Death (Judicial)	300000	Uttar Pradesh
5	487/6/1/2021-JCD	Custodial Death (Judicial)	300000	Gujrata
6	2935/24/30/2017	Failure in Taking Lawful Action	50000	Uttar Pradesh
7	48326/24/68/2015	Failure in Taking Lawful Action	100000	Uttar Pradesh
8	26891/24/12/2017-WC	Abduction, Rape And Murder	50000	Uttar Pradesh
9	380/4/1/2018	Children	200000	Bihar
10	80/25/11/2018-PF	Death in Firing	300000	West Bengal
11	563/33/17/2016-ED	Death in Police Encounter	700000	Chhattisgarh
12	4305/18/29/2018	Health	200000	Odisha
13	2781/4/27/2017	Inaction by the State/Central Govt. officials	100000	Bihar
14	244/10/7/2018	Malfunctioning of Medical Professionals	100000	Karnataka

Payment of Relief on NHRC Recommendations:

The Commission closed 23 cases on receipt of compliance reports from different public authorities, furnishing proof of payment. It had recommended an amount of total Rs. 49,50,000/- to the victims of human rights violations or their next of kin. *The specific details of these cases, closed in April, 2021, can be downloaded from the NHRC website by logging the case number given in the table below:*

Sr. No.	Case No.	Nature of Case	Amount	Authority
1	152/3/14/2016-JCD	Custodial Death (Judicial)	200000	Assam
2	597/6/2/2017-JCD	Custodial Death (Judicial)	300000	Gujarat

Sr. No.	Case No.	Nature of Case	Amount	Authority
3	284/19/3/2018-JCD	Custodial Death (Judicial)	450000	Punjab
4	338/19/9/2019-JCD	Custodial Death (Judicial)	300000	Punjab
5	15345/24/54/2019-JCD	Custodial Death (Judicial)	200000	Uttar Pradesh
6	18627/24/7/2014-JCD	Custodial Death (Judicial)	300000	Uttar Pradesh
7	22740/24/36/2017-JCD	Custodial Death (Judicial)	350000	Uttar Pradesh
8	24714/24/40/2016-JCD	Custodial Death (Judicial)	300000	Uttar Pradesh
9	1095/1/10/2017	Inaction by the State/Central Govt. officials	300000	Andhra Pradesh
10	293/34/3/2018	Inaction by the State/Central Govt. officials	200000	Jharkhand
11	4230/18/28/2017	Inaction by the State/Central Govt. officials	100000	Odisha
12	16151/24/3/2017-WC	Abduction, Rape and Murder	100000	Uttar Pradesh
13	26891/24/12/2017-WC	Abduction, Rape and Murder	50000	Uttar Pradesh
14	100/6/18/2017-PF	Abuse of Power	100000	Gujarat
15	10862/24/14/2019	Abuse of Power	200000	Uttar Pradesh
16	296/20/19/2019	Exploitation of Children	300000	Rajasthan
17	3142/20/21/2017	Exploitation of Children	200000	Rajasthan
18	837/12/10/2017	Failure in Taking Lawful Action	300000	Madhya Pradesh
19	2935/24/30/2017	Failure in Taking Lawful Action	50000	Uttar Pradesh
20	2056/7/15/2019-WC	Gang Rape	200000	Haryana
21	686/18/16/2017	Miscellaneous	200000	Odisha
22	1521/25/23/2018	Non Payment of Salary/Wages	100000	West Bengal
23	17823/24/55/2017	Atrocities on SC/ST (by Police)	150000	Uttar Pradesh

From Investigation Files

This column carries a story unfolding an intricate case of

human rights violation leading to diametrically opposite revelation to

prima-facie claims and findings after investigations by the NHRC team.

Crossing jurisdictional powers by police (Case No. 6/21/3/2017)

The case pertains to the killing of an innocent person in firing by the West Bengal police during the unauthorized search operations in Namchi (Sikkim) on 1st September, 2017.

The West Bengal police claimed that the man was fired upon in exercise of their right to self-defence. During the course of enquiry, by the Investigation Division of the Commission, it

was found that the raid by the West Bengal police, led by an SP, was unauthorized without any information to the local police. The raiding police team indulged in high handedness and misuse of power. The firing by them resulted in the killing of an innocent civilian, amounting to violation of his human rights. The West Bengal police personnel failed to establish that in order to save themselves, they had to open fire.

The enquiry by the NHRC team exposed the holes in the

defence of the West Bengal police. Accordingly, on the basis of the findings of its Investigation team, the Commission issued a notice to the Govt. of West Bengal, through its Chief Secretary, to show cause, why Rs. 3 lakh may not be recommended to be paid to the NoK of the deceased.

The State Govt. has also been asked for strict punitive action against the errant officials, who carried out the raids in another State, without following the relevant provisions of law.

Snippets

- On 06th April, 2021, the principal investigators of the two research projects/studies gave online presentations on their draft research reports and findings. The topics were:

- 'Assessment and Evaluation of Business and Human Rights Reporting by Corporate India'* by IIM Bangalore
- 'Study to understand functioning of companies' response system vis-a-vis key Human Rights violations available in Public Domain'* by Partners in Change, Delhi.

Mr. R K Khandelwal, Additional

Secretary, NHRC chaired the online meeting in this connection. It was felt that the outcome of the research study will certainly bring a change in the policy and would facilitate the protection of human rights in business establishments.

- On 07th April, 2021, Mrs. Jyotika Kalra, Member, NHRC addressed a virtual National Conference on World Health Day as a Chief Guest. This was organized by the SRF Foundation.
- A Video Conference was held with the senior officers of the Government of Uttar Pradesh

and Odisha on 08th and 09th April, 2021 respectively to expedite the reports in the pending cases related to them. Mr. Bimbadhar Pradhan, Secretary General, NHRC chaired it.

- On 15th April, 2021, Mrs. Jyotika Kalra, Member, NHRC participated in an online meeting of the Women Leaders' Forum (WLF) to support women in leadership positions within the APF membership. The WLF has been established by the Asia Pacific Forum of National Human Rights Institutions.

Human Rights and NHRC in News

During April, 2021, the Media & Communication Wing of the Commission prepared and issued **7 press releases. 2379 news clippings** on various human rights issues were culled out from different/select editions of major

English and Hindi newspapers and some news websites out of which 188 News Clippings were NHRC specific. News clippings related to the incidents of alleged human rights violations were brought to the notice of the Commission. News

stories having specific reference to the interventions by the NHRC can be seen at 'NHRC-in-News' on the website of the Commission. 'NHRC Twitter handle' was abuzz with 50 tweets on the Commission's interventions & activities.

