

# Open Hearings of the Commission

At

Puri (Odisha), Ahmedabad (Gujarat)  
Chennai (Tamilnadu) and Jaipur (Rajasthan)



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भवन्तु सुखिनः

National Human Rights Commission  
India

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National Human Rights Commission

Faridkot House, Copernicus Marg,

New Delhi - 110 001, India

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First Published : 10 December, 2012



National Human Rights Commission  
Faridkot House, Copernicus Marg  
New Delhi-110 001, India.

Cover Design/Typeset & Printed at:  
Dolphin Printo-Graphics  
4E/7, Pabla Building, Jhandewalan Extension,  
New Delhi - 110 055



## Foreword


The Commission has been extremely concerned about the protection and promotion of rights of the people belonging to Scheduled Castes and Scheduled Tribes. It is noticed that inspite of several legislations in place to improve their social status as well as prevent discriminatory practices against them, many incidents still take place, which are in violation of the human rights of these people.

The Commission had some time back constituted a Committee headed by Shri K.B. Saxena, a senior retired IAS officer, which gave a detailed report on this subject. In accordance with one of its recommendations, the Commission has

initiated the process of holding open hearings for these people, who have suffered discrimination or their rights have been otherwise violated in contravention to the existing legislations prohibiting such practices. These open hearings have been successfully conducted in various states, drawing a large number of people seeking relief and redressal.

This compilation of reports for the open hearings conducted at Puri – Odisha, Ahmedabad – Gujarat, Chennai – Tamilnadu and Jaipur – Rajasthan gives a brief summary of the proceedings which took place during these open hearings and the type of relief provided by the Commission in such cases. I hope the compilation will generate more awareness in the society regarding the existing anti-discriminatory laws for the protection of people belonging to SC and ST communities and the options available for soliciting relief under them.

10 December, 2012



(K.G. Balakrishnan)

# Introduction

Since its inception, the Commission has been actively engaged in protection and promotion of the rights of Scheduled Castes and Scheduled Tribes. Apart from taking cognizance suo-motu and on complaints relating to atrocities against Scheduled Castes, the Commission has also engaged with key stakeholders on the issue, published booklets and held training programmes aimed at sensitizing various stakeholders on the issue so as to eliminate atrocities, discrimination and other form of violation of their human rights.

Earlier, the Commission co-organised a National Consultation on “Strengthening Civil Society Initiatives for Scheduled Castes” with the National Campaign on Dalit Human Rights in December, 2007 at New Delhi. The Commission also took a decision to launch awareness campaigns in four districts which had a high record of atrocities against Scheduled Castes. In this

connection, members and senior officials from the Commission have been visiting Bharatpur in Rajasthan, Faridabad in Haryana, Jaipur and Ajmer in Rajasthan.

The National Human Rights Commission, being deeply concerned about the atrocities against persons belonging to Scheduled Castes, requested Shri K. B. Saxena, IAS (Retd.) to carry out a study in this regard and suggest appropriate recommendations. Accordingly, Shri Saxena undertook the study and submitted his comprehensive and detailed report. This report is available on the website of Commission i.e. [www.nhrc.nic.in](http://www.nhrc.nic.in). Among the recommendations Shri Saxena made, it was suggested that the Commission should organise at least one open hearing a year “where the victims of major atrocities can present their experiences and grievances in seeking justice from Government agencies and human rights bodies/non-governmental organizations/social workers and activists may apprise the Commission of difficulties encountered by them in taking up their complaints. In the interaction with the State Government subsequent to the hearing, the Commission may convey its

observations and advice on various actions to be taken for effective enforcement of law, sustaining confidence of victims and, where required, looking into the conduct of officials coming in for adverse reference during the hearing. The follow up action on the hearings may be monitored.”

In its endeavour to implement the recommendations made by Shri K.B. Saxena in his report, the Commission decided to organize open hearings regarding atrocities on Scheduled Castes in various parts of the country. To begin with, the Commission organized first open hearing at Puri, Odisha. Thereafter, the Commission has so far held three more open hearing at Ahmedabad, Gujarat; Chennai, Tamil Nadu and Jaipur, Rajasthan. The next open hearing is scheduled to be held at Nagpur, Maharashtra later this month.

During the Open Hearings at Puri and Ahmedabad persons belonging to scheduled castes who had a complaint of atrocities committed by a public servant or of negligence by a public servant in prevention of atrocities were invited to raise their



grievance in the Open Hearing. Thereafter, the Commission started the practice inviting complaints from members of public in advance through a public notice in the leading National and regional local dailies of the concerned State.

## Puri, Odisha

The first open hearing was held at Puri (8-10 April, 2012). A delegation headed by Shri Satyabrata Pal, Member, NHRC and comprising of Shri Damodar Sarangi, Special Rapporteur, Smt. Mamta Singh, DIG, Shri A. K. Parashar, Joint Registrar (Law). And Shri K.K. Shrivastava, Assistant Registrar (Law) visited Odisha in connection with the Open Hearing conducted on various issues relating to atrocities and problems faced by Scheduled Castes. After the open hearing, the delegation held a meeting with NGOs and Human Rights Defenders who raised a number of issues relating to violation of human rights of persons belonging to scheduled castes. NGOs drew attention of the Commission towards various superstitions prevalent in the State and harassment and torture of the downtrodden in the name of witchcraft, black magic, tantra and

mantra; widespread trading of country liquor and foreign liquor in remote as well as urban areas and sometimes leading to death due to consumption of spurious liquor by innocent villagers. They also expressed the need to set up SC/ST Protection Cells in villages under section 17 of the SC and ST (Prevention of Atrocities) Act, 1989. They also expressed concern over attacks on Human Rights Defenders and anti-displacement activists and their illegal detention. Other issues like trafficking on women, child labour, killing of people in riots, lack of proper investigation by police leading to acquittal of guilty, non-registration or improper registration of FIRs, forced marriage of minor girls, missing children etc. were also deliberated upon.

The delegation also held a meeting with Chief Secretary and senior officers of the State Government who were urged to give their urgent attention to the issues raised during the open hearing and take action for their very early resolution. The delegation also visited Jagasinghpur and POSCO site (Kujanga) for assessment of human rights issues in these areas.

# Ahmedabad, Gujarat

During the Open hearing at Ahmedabad (14-15 May, 2012), a delegation of the Commission headed by its Chairperson, Justice Shri K. G. Balakrishnan and comprising of Justice Shri B. C. Patel, Shri Sunil Krishna, Director General (Investigation), Shri A. K. Garg, Registrar (Law), Shri A. K. Parashar, Joint Registrar (Law), Shri Khwaja Abdul Hafeez, Assistant Registrar (Law), Shri J. K. Srivastava, I. O. and other officials visited Gujarat. More than 300 persons/complainants attended the open hearing to raise their grievances. After hearing the complainants, the Commission held a meeting with NGOs who raised several issues like miserable conditions of gutter workers, allocation of funds for upliftment of dalit women,

provision of residence to Safai Karamcharis, rehabilitation of victims of social boycott and forced migration, manual scavenging, exploitation of labourers, delay in administration of justice, provision of water and sanitation facilities for residents of hutments in the city, lower conviction rates in cases under SC & ST (POA) Act, 1989, abolition of contract system etc. After a meeting with NGOs, the delegation held a meeting with senior civil and police officers of the State Government including the Chief Secretary and the DGP and discussed all these problems with them. The State Government assured the Commission that they will make an expeditious inquiry on all these issues and find satisfactory solutions. During the hearing, about 100 complaints were received and the same have been processed and appropriate action taken on these complaints by the Commission.

## Chennai, Tamil Nadu

The Commission held its third open hearing at Chennai, Tamilnadu (7-9 August 2012), inaugurated by Hon'ble Chairperson, Justice Shri K. G. Balakrishnan. The delegation head by the Chairperson also comprised of Justice Shri B. C. Patel, Member, Shri Satyabrata Pal, Member, Shri Sunil Krishna, Director General (Investigation), Shri A.K. Garg, Registrar (Law), Shri A. K. Parashar, Joint Registrar (Law), Shri O.P. Vyas, Assistant Registrar (Law), Shri J.K. Srivastava, I.O. and other officials. For this Open Hearing, the Commission invited complaints in advance through a public notice published in the leading Tamil and English newspapers. More than 1,000 complaints/representations were received, out of which the Commission found 317 complaints fit for its

intervention. The Commission issued notices in these cases in advance to the state government to submit their response.

These 317 cases were taken up in two benches. 168 cases were taken up for consideration in Bench No.1 presided over by Member, Justice Shri B C Patel and 149 cases in Bench No. 2 presided over by Member Shri Satyabrata Pal. Upon hearing the grievances of the complainants and consideration of the reports, 159 cases were finally disposed of which included 111 cases in Bench–I and 48 cases in Bench–II.

The response of the State Government in cases taken up on 7 August, 2012 were not very satisfactory and in view of this response, many cases could not be disposed of. The complainants had come from distant places. Therefore, in some cases the State was asked to reimburse the expenses incurred on journey of complainants.

On 8 August, 2012, the response showed a remarkable improvement and replies from the State Government were received in almost all the cases.

Many complaints related to non issue of caste certificates. In some cases, the State Government issued caste certificates on receiving notice from the Commission. In other cases, it was observed that there was inordinate delay on the part of revenue officials in conducting the inquiry. The Commission emphasized that the inquiry should be expeditiously concluded and caste certificates to the deserving candidates should be speedily issued.

The grievance of some complainants was that either they had not been issued Patta or even after issue of Patta, the possession of land had not been given to them. The State Government issued patta in some cases after receiving notice from the Commission and in the remaining cases, the State Government was asked to take appropriate legal/ criminal action and ensure delivery of possession to the patta holders.



In some cases, it was alleged that on retirement of the employees, the post retirement benefits have not been given. In some of these cases the retiral benefits were given by the State government on receiving notices from the Commission and in the remaining cases, the Commission directed the State Government to pay the retiral benefits within a fixed time.

Many complaints of land grabbing were made. The Commission directed the concerned authorities to take appropriate action under the SC & ST (POA) Act, 1989 expeditiously. In one case, it was found that the grave yard of the Scheduled Castes had been encroached upon by upper caste people and the State had not taken appropriate action. The Commission recommended prosecution of encroachers under Section 3(1)(v) of SC & ST (POA) Act, 1989 and also recommended prosecution of the negligent government officer under Section 4 of the Act. In many cases, it was found that the police had filed charge sheet after investigation of cases of atrocities on SCs but the financial assistance prescribed by SC/ST (POA) Rules had not been given.

The Commission directed the State Government to disburse the financial assistance within a prescribed time. In many cases it was observed that the offence against SCs had been diluted in the FIRs and appropriate provision of SC & ST (POA) Act, 1989 was not invoked. The Commission directed the police authorities to take action against under the appropriate provisions of SC & ST (POA) Act, 1989 which was required to be taken on the basis of allegations made by the victim. In one case, rehabilitation of 45 families which were displaced was recommended.

In one of the cases, the complainant Shri Balasubramanian's wife Smt. Valli working as a labourer in Parry Agro Industries Limited alleged that Shri Neduncheliyan, an officer of the company, demanded ₹ 10,000/- for making her a permanent employee. When he refused, Shri Neduncheliyan assaulted him as a result of which he was admitted to the hospital. The matter was reported to the police but no action was taken.

The Commission issued notice to the S.P. Nilgiris, Tamil Nadu, directing him to submit a detailed report in the matter latest by 25.7.2012 for taking up the matter during the open hearing.

During the open hearing, the Commission considered the report of Superintendent of Police, Niligiris that, since the complainant's wife had been made permanent in her job in 2010, the question of a demand being made to facilitate this subsequently does not arise. Secondly, regarding an assault on the complainant, it was reported by the SP, and confirmed by the complaint, that the assailant was also from the Adi Dravidar community.

The Commission held that the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 do not, therefore, apply. The Commission, however, observed that the police acted only after receiving its notice and the delay in the registration of the FIR is itself a violation of rights. In addition to the

departmental action that had been taken against the police officer concerned, the Commission asked the Government of Tamil Nadu to show cause why it should not recommend monetary relief for the victim.

In response, Superintendent of Police, Niligiris District reported that the concerned officer was awarded a punishment of “Postponement of increment for one year without cumulative effect”. The victim, Shri Balasubramanian had sustained simple injury and the minimum monetary relief could be paid to him under the Protection of Human Rights Act, 1993.

Hence, the Commission vide its proceedings dated 31.10.2012 recommended to the Chief Secretary, Government of Tamil Nadu to make payment of Rupees 10,000/- as monetary compensation to be paid to the victim Shri Balasubramanian. He has been asked to submit the compliance report along with the proof of payment within 8 weeks.

The Commission after hearing the affected people had a meeting with the representatives of the NGOs who raised issues such as elimination of manual scavenging and amendment in the Act, Non issuance of protective equipments to the sanitary workers of the Corporation of Chennai, non issuance of Caste Certificates, pattas, non existent schools within the radius of 10 Kms. in Erode wherein Adi Dravidars are residing etc.

The Commission also had a meeting with senior officers of the State Government including the Chief Secretary and Director General of Police and discussed the issues raised during the open hearing and meeting with the NGOs.

## Jaipur, Rajasthan

The Commission held its fourth open hearing at Jaipur, Rajasthan (13-14 September, 2012). In response to a public notice published in the leading English and Hindi newspapers, more than 300 complaints were received out of which the Commission found 114 complaints fit for taking up for consideration at the Open Hearing. The Commission issued notices in these cases in advance to the state government to submit their response.

A delegation headed by Justice Shri K. G. Balakrishnan, Chairperson, NHRC and comprising of Justice Shri B. C. Patel, Member, Shri Satyabrata Pal, Member, Shri A. K. Garg, Registrar (Law), Shri A. K. Parashar, Joint Registrar (Law), Shri O.P. Vyas, Assistant Registrar (Law), Shri J.K. Srivastava, I. O. visited the state. The Chairperson inaugurated the

Open Hearing. 114 cases were taken up in two benches, presided over by Justice Shri B. C. Patel and Shri Satyabrata Pal. 89 cases were finally disposed of during the hearing itself and appropriate directions were issued in the remaining 25 cases. 65 fresh complaints were also received during the open hearing.

In one of the case, the complainant, a BPL card holder and belonging to a Scheduled Caste, alleged that he has his patrimonial house in Khasara No. 1264 at village Arndai, District Jalore, but he yet could not get its Patta despite various requests to the authorities.

The Commission issued notice to the District Collector, Jalore, Rajasthan calling for a detailed report in the matter latest by 25th August, 2012 for taking up the matter at the public hearing.

District Collector, Jalore reported through a letter dated 05.09.2012 that separate enquiries conducted by the Tehsildar, the Development

Officer and the SP have established that the complainant has a house, built under the Indira Awas Yojana, in Khasra No. 1297. The land in Khasra No. 1264 has been registered in the revenue records as government land for public use and is presently vacant.

The Development Officer had advised that under the provisions of the Rajasthan Panchayati Raj Act, 1994, it was not possible to issue a Patta to the complainant. The complainant, who appeared before the Commission during the open hearing reiterated the substance of his request, but was unable to produce any proof of title to the land that he claimed. The Collector reconfirmed that the land in question is presently allotted to the Gram Panchayat.

Since a portion of the land which was allotted to the complainant has been used for the construction of the house given to him under the Indira Awas Yojana, and he has no other land, the Commission has requested the Collector to see if a



plot of about 150 square metres can be given to him. The Collector explained that the decision would have to be taken by the Gram Sabha but he assured the Commission that he would make a recommendation.

Apart from hearing complainants at the Open Hearing, the Commission held a meeting with local NGOs who raised various issues like non-involvement of NGOs in the implementation of various socio-economic programmes of the Government, atrocities on dalits by the Government authorities especially the police, deplorable questioning by the police authorities with the rape victims, atrocities on dalits by caste people and untouchability issues.

The Commission also held a meeting with high level functionaries of the State including the Chief Secretary and Director General of Police. During this meeting, the State Government was apprised of the problems of the Dalits and the State Government assured that all these issues shall be taken care of.



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