

State Human Rights Commission

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Annual Report 2005-2006

ANNUAL REPORT 2005-2006 ANNUAL REP6 State Human Rights Commission Made Ineffective Jammu and Kashmir Human Rights Commission is the creation of J&K Protection of Human Rights Act, 1997. The Commission was established in the year 1997, and is headquartered at Srinagar. The scheme of the original Act conformed to the aspirations the Parliament of India expressed while passing the National Human Rights Act, 1993. Functional and financial autonomy of the institution was promised. The Commission was vested with full-fledged power to appoint its technical and ministerial staff. However suddenly the Act was amended in 2002. Its power of appointment was taken away and its financial supervision continued to remain with the Government.

The Commission Chairperson, Justice A.M. Mir, immediately after taking over, invited the attention of the Law Minister to the drawbacks in the Act. An amendment was prepared and sent to the State Ministry of Law. Till date, this motion has not received any attention, thus leaving the Commission in lurch.

Under the Act, the Commission is supposed to have sub-offices at Jammu, Doda and Rajouri. However, there are no sub-offices in Rajouri and Doda because the government did not provide them space and infrastructure. Commission, however, could ensure soace for the office in Jammu. Two rooms were allocated in a private building in Gandhi Nagar, Jammu. The lease expired in two years in April 2006. The Commission asked the Government for extension but nothing was done. As a result even the Jammu sub-office is also non-functional.

It was due to this lack of infrastructure that the Commission could not hold it's sitting at Rajouri. However, one Commission Member did hear the cases at Doda for a week. As far as the Jammu sub-office is concerned, regular sittings were held till May 2006. After that no sittings could be held for want of office space. Besides receiving complaints, the Commission is obligated under the Act to spread Human Rights literacy among various sections of society and promote awareness of the safeguards available for Human Rights protection. The Act expressly says that this should be done through publications, seminars and interactions. It also states that the Commission will review the factors that inhibit the enjoyments of Human Rights and recommend appropriate remedial measures.

Despite this unequivocal statutory position, the Government has not provided any funds to the Commission for seminars and publications. The Commission has at its disposal a meagre amount of money that hardly meets the expenses of printing the Annual Report and other necessary office records. In this context, the Commission requested the government to allocate adequate funds for conducting such seminars at state, region and district level, but all in vain. If the funds, as required, had been provided, the Commission would have been able to spread Human Rights literacy in the general public. But all those functions were not undertaken because of the non-provision of funds. Some genuine Non-Government Organizations and institutions needed to be mobilized for this. However, nothing was done in that field.

Although the Act empowers the Commission to frame its rules of procedure, during the year under report this procedure could not be formulated, despite strenuous efforts, because of the non-availability of requisite quorum.

The Commission has, however, tried to loose its court trappings and has been adopting a summary procedure in cases where it is possible. The allegations of violations of Human Rights were in important cases communicated to the agencies through telephonic messages and an attempt was made to put the violators on alert. Spot trails also were conducted.

The main function of the Commission, of course, is to hold enquires and investigations regarding the complaints of Human Rights violations. The investigative part is practically redundant for the present complexion of the Commission. Investigations under the Act need to be made by Commission's independent investigating team headed by an Inspector General of Police. This team was never made available. The post of Inspector General is lying vacant. Being helpless, the Commission decided to refer every case for investigation to the Inspector General of Police of the region. However, this is problematic because the allegations of Human Rights violations are usually made against the local police. The territorial Inspector General of Police generally comes to the defence of the erring culprits with the result that the police's stand is accepted. The term 'investigation' used in the Act, therefore, loses its meaning. What the Commission finally falls back upon is the enquiry itself. The Commission has been taking evidence and deciding cases on the strength of evidence and record placed before it. The experience of the Commission is unpleasant because the same cases are also referred to the Dy. Commissioners of the district in a routine manner who plead that the claimant has no case.

Basically under Section 19 of the Act it was the Government or an authority designated by the Government that could take a decision on the Commission's recommendations. An Action Taken Report has to be sent to the Commission within one month of the receipt of the recommendation. The Commission has received no such report so far. An important question arises: if the Commission's recommendations also have to go to the Dy. Commissioners, is the Commission not being made redundant?

OBSERVANCE IN BREACH

In last two consecutive Annual Reports the Commission has expressed anxiety over the non-implementation of its recommendations. The grievance has, however, neither been addressed nor registered. The Commission's work is futile if its recommendations are not heeded. The people complain about this because in spite of the time and money that they spend, recommendations in their favour are not implemented. It may not be obligatory for the government to

implement all the recommendations, but ignoring and brushing aside all the recommendations means showing utter disregard of the Act. **ACCOMMODATION**The J&K State Human Rights Commission still continues to be housed in a private accommodation. Government has given the old Settlement Record Room at Mulana Azad Road for accommodation to the Commission. The new building was completed four years back. The construction of the Administrative Block, however, has been stopped for unknown reasons.

COMPOSITION OF THE COMMISSION

Three posts of Members are vacant and have not been filled so far. The Commission today comprises of its Chairperson and one Member only.

STAFF STRENGTH OF THE COMMISSION

At the time of setting up of the Commission, some officials who had been declared surplus from J&K Industries were posted to the Commission. Likewise some of the officials were transferred to the Commission from the Law Department. This Commission, as an autonomous body and under the spirit of the Act, should have its own cadre of employees. The Chairman took up the matter with the government in this behalf and strongly recommended that a separate service cadre for the Commission be generated.

Government did not pay any heed to that proposal. Not only that, the Law Department which also happens to function as Administrative Department for the Commission made promotions of some ministerial officials by-passing the Seniority Rule and ignoring the claim of some of the ministerial employees of the Commission who were far senior and superior in merit to the persons promoted. This issue was again taken up with the Government. But all in vain.

APPOINTMENTS TO VACANT POSTS

Five posts of Presenting Officers and four posts of Junior Scale Stenographers have been lying vacant in the Commission.

CREATION OF ADDITIONAL POSTS

In view of the multi-dimensional complexion of the functions, the Commission made requisition for creation of seven additional posts to government so many times but the attempts of the Commission yielded no results. **PROVIDING**

OF GRANTS INSTEAD OF BUDGET There is a clear provision in the Act that government should provide finances to the Commission by way of grants, so as to allow its functioning without any constraints. Even for petty matters, the Commission has to request the government for relaxation of the restrictions imposed and for re-appropriation. The result is that the Commission is unable to serve even a cup of tea to the visiting National and International dignitaries who frequently visit it. (Excerpts from the Annual report, 2005-06, State Human Rights Commission prepared by Justice A.

M. Mir, Chairperson J&K SHRC, Srinagar and Mr. G.N. Mir, Member J&K SHRC, Srinagar)