

GOA HUMAN RIGHTS COMMISSION
PANAJI – GOA

ANNUAL REPORT
2014 – 2015

Introduction

This is the fourth Annual Report of the State Human Rights Commission for the year 2014-2015.

2. The Protection of Human Rights Act, 1993 provides for the constitution of National Human Rights Commission and State Human Rights Commissions in States and Human Rights Courts for better protection of human rights and the matters connected therewith or incidental thereto.

3. Article-21 of the Constitution of India guarantees every citizen right to life which includes right to live with dignity and decency. “Human Rights” means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by Courts in India. Thus, any infringement of fundamental rights also amounts to violation of human rights. In absence of State Human Rights Commission in the State of Goa, the persons whose human rights were allegedly violated by the public functionaries were constrained to approach before the normal court of law which involves long and cumbersome procedure apart from being a costly affair. The establishment of State Human Rights Commission has fulfilled the aspirations of the people of Goa who, now, have an easy access to justice to ventilate their grievances against public servants in the matter of violation of human rights.

4. The Government of Goa has allotted adequate office premises to the Commission consisting of 609.39sq.mts in the Old Education Department Building at Panaji and has also provided adequate infrastructure for smooth functioning of the Commission.

5. During the period of 2013-2014, the Commission took suomotu cognizance in 23 (twenty three) cases out of which 17 (seventeen) cases were disposed off. The Commission received 292 (two hundred ninety two) complaints out of which 139 (one hundred thirty nine) complaints were disposed off. During this year the Commission took suomotu cognizance in 10 (ten) cases out of which 7 (seven) cases have been disposed off. The Commission received 282 (two hundred eighty two) complaints out of which 142 (one hundred forty two) complaints have been disposed off.

6. During this period the staff members brought on deputation are indicated below:

Sr. No.	Name of Post	Pay Scale
1.	Section Officer	9300-34800+GP 4600
2.	Legal Assistant	9300-34800+GP 4200
3.	Accountant	9300-34800+GP 4200
4.	Stenographer Grade-I	9300-34800+GP 4200
5.	Sr. Assistant	9300-34800+GP 4200
6.	Stenographer Grade-II	5200-20200+ GP 2400
7.	Assistant	5200-20200+GP 2400
8.	Jr. Assistant	5200-20200+GP 1900
9.	Drivers	5200-20200+GP 1900

7. The strength of the staff members are indicated below:

Sr. No.	Name of Post	Pay Scale	No. of Posts
1.	Secretary	15600-39100+GP7600	1
2.	Under Secretary	15600-39100+GP5400	1
3.	Section Officer	9300-34800+GP 4600	1
4.	Legal Assistant	9300-34800+GP 4200	1
5.	Accountant	9300-34800+GP 4200	1
6.	Stenographer Grade-I	9300-34800+GP 4200	3
7.	Sr. Assistant	9300-34800+GP 4200	1
8.	Stenographer Grade-II	5200-20200+ GP 2400	1
9.	Assistant	5200-20200+GP 2400	1
10.	Jr. Assistant	5200-20200+GP 1900	2
11.	Bailiff	5200-20200+GP 1800	1
12.	Peon	4440-7440+GP 1300	3
13.	Drivers	5200-20200+GP 1900	6

8. The Commission purchased one Scanner, four wheeler Maruti Suzuki SX4, Nokia Mobile, etc. to meet the requirement of the Commission.

9. **Constitution of Commission**

The Goa Human Rights Commission was constituted in the month of March, 2011 to exercise the powers conferred upon and to perform the functions assigned to the State Commission under Chapter IV of The Protection of Human Rights Act, 1993. Section 21 (2) of the said Act lays down that the State Human Rights Commission shall consists of

- (a) A Chairperson who has been a Chief Justice of a High Court.
- (b) One Member who is, or has been, a Judge of a High Court or

District Judge in the State with a minimum of seven years' experience as District Judge.

- (c) One Member to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

The constitution of the Commission during this period was as under:

- (i) Justice Prafulla Kumar Misra, Chairperson (Former Chief Justice of Patna High Court).
- (ii) Shri A. D. Salkar, Member (Former District Judge of State of Goa).
- (iii) Shri J. A. Keny, Member (Former Member of the Goa Public Service Commission).

Section 27 of the said Act mandates that the Government shall make available an Officer not below the rank of a Secretary to the State Government who shall be the Secretary of the State Commission and such Police and Investigative Staff under an Officer not below the rank of Inspector General of Police and such other Officers and Staff as may be necessary for efficient performance of the functions of the State Commission.

10. During this period, Shri Z. U. Siddiqui, IAS was posted as Secretary for the Commission on part-time basis.

11. **Functions of State Commission.**

Section-12 read with Section 29 of The Protection of Human Rights Act, 1993 provides for the functions of the State Human Rights Commission which inter alia includes the following functions:-

(a) To inquire suomotu or on a petition presented to it by the victim of any person on its behalf or on directions or on order of any Court into the complaint of:

(i) Violation of human rights or abetment thereof; or

(ii) Negligence in the prevention of such violation, by a public servant;

(b) To intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;

- (c) *To visit notwithstanding anything contained in any other law for the time being in force, any jail or other institution under the control of State Government, where persons are detained or lodged for purpose of treatment, reformation or protection, for the study of living conditions of inmates thereof and make recommendation thereon to the Government;*
- (d) *To review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;*
- (e) *To review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures;*
- (f) *To spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, media, seminars and other available means;*
- (g) *To encourage the efforts of non-governmental organisations and institutions working in the field of human rights;*
- (h) *To such other functions as it may consider necessary for the promotion of human rights.*

12. Procedure adopted by the State Commission

The Goa Human Rights Commission has notified its own Regulation namely Goa Human Rights Commission (Procedure) Regulations, 2011, which is published under Section 10 and Section 29 of The Protection of Human Rights Act, 1993. One of the most important functions of the State Commission is to inquire suomotu or on a petition presented to it by the victim into the complaint of violation of human rights by a public servant. The State Commission has devised a simple procedure for receiving and dealing with complaints. A complaint can be filed either in person or through post or via e-mail. The State Commission does not charge any fee from the people for filing complaints.

13. Powers of the Commission

The State Commission while inquiring into the complaints under the Act have powers of civil court trying a suit under the Code of Civil Procedure, 1908, and in particular in respect of the following matters, namely:

- (a) *Summoning and enforcing the attendance of witnesses and examining them on oath;*

(b) Discovery and production of any document;

(c) Receiving evidence on affidavits;

(d) Requisitioning any public record or copy thereof from any court or office;

(e) Issuing commissions for the examinations of witnesses or documents;

(f) Any other matter which may be prescribed.

14. Complaints not ordinarily entertainable.

As per Regulation 9 of the Goa Human Rights Commission (Procedure), Regulations, 2011, the Commission may not entertain complaints:-

(a) which are vague or anonymous or pseudonymous or trivial in or frivolous in nature;

(b) which are pending before any other Commission;

(c) which raise dispute of civil nature, such as property rights or contractual obligations;

(d) which relate to service matters or industrial disputes;

(e) which are not against any public servant;

(f) which do not make out any specific violation of human rights;

(g) which are covered by a judicial verdict or decision of the Commission;

(h) which are outside the purview of the Commission.

15. Grants by State Government

As per Section 33 of The Protection of Human Rights Act, 1993, the State Government shall pay to the State Commission by way of grants such sums of money and the State Commission may spend such sums as it thinks fit for performing the functions under Chapter V. However, the Goa Human Rights Commission preferred to seek the provision in the Budget and powers are vested in the Secretary to the Commission who has also been delegated with powers of Head of Department to incur the expenditure on the affairs of the Commission and all the expenditure incurred are being scrutinized by the Directorate of Accounts as pre audit and payment effected. This arrangement was preferred by the Commission at par with the Goa Public Service Commission. During this period a Budget provision of Rs. 189.00 lakhs (Rupees One hundred eighty nine lakhs only) was made. The Commission spent an amount of Rs. 182.66 Lakhs (Rupees One hundred eighty two lakhs and sixty six thousand only).

The Commission is also required to prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with Comptroller and Auditor General of India. However, as stated earlier, all the expenditure made, by the Commission out of the provision in the Budget Estimates of 2012-13, through the Directorate of Accounts are as per pre-audit.

Hence, it is not necessary to prepare its Annual Statement of Accounts and submit the same to the State Government as per provisions in The Protection of Human Rights Act, 1993.

16. Few cases based on complaints for the period 2013-2014 and which have been disposed off during this year by making recommendations as indicated below:

Proceeding No.84/2013:

This case has been disposed off on 03/06/2014 by making following recommendation:

In this case it was alleged that there was inordinate delay in the matter of investigation of the case and the investigation was not properly conducted by the police. This Commission recommended that the investigation of this case may be handed over preferably to Central Bureau of Investigation or State Crime Branch, Panaji for further investigation.

Proceeding No. 85/2013 :

This case has been disposed off on 11/11/2014 by making following recommendations:

1. *The Executive Magistrate, Margao before whom the proceedings under Section 133 of Cr.PC are pending shall dispose of the complaint as expeditiously as possible in accordance with law.*
2. *The Margao Municipal Council, Margao shall initiate appropriate action against M/s Victoria Engineering (Respondent No.1) for carrying out activities in a thickly populated residential area without obtaining licence for fabrication work from Margao Municipal Council.*
3. *The Directorate of Industries, Trade and Commerce, Panaji – Goa shall carry out inspection of M/s Victoria Engineering and make assessment as to whether M/s Victoria Engineering can be allowed*

to carry out fabrication activity in the residential area and submit its report within 30 days.

4. *The Goa State Pollution Control Board shall carry out surprise inspection of M/s Victoria Engineering by deputing two senior Officers to verify and record the noise level when all the machines used in the Workshop are simultaneously operational. They should also assess dust & smell/odour pollution caused by the unit in a residential area and shall submit its report within 30 days.*

Proceeding No. 138/2013 :

This case has been disposed off on 18/06/2014 by making following recommendation:

In this case the Complainant had alleged that he was illegally arrested by Panaji Police. The Complainant in this case is a Senior Citizen and was 72 years old at the time of arrest. This Commission recommended that the State of Goa shall an amount of Rs.30,000/- (Rupees thirty thousand only) to the Complainant as compensation within a period of 30 days.

Proceeding No. 83/2013 and Proceeding No.210/2013 :

Both these cases have been disposed off on 29/04/2014 by passing common order.

Proceeding No.83/2013 relates to non-payment of salaries of six ECG technicians of Goa Medical College and Hospital, Bambolim for the period from 01/03/2013 to 11/07/2013 and proceeding No.210/2013 relates to non-payment of Subsistence Allowance for the period from 14/06/2013 to 30/09/2013 in respect of very same employees, namely 1) Shri Fidelis Rafael Fernandes, 2) ShriVivekMorajkar, 3) Smt. VindaGaonkar, 4) ShriTusharRane, 5) ShriAudhoorMadkaikar, and 6) Smt. ShobaNaik.

This Commission recommended as follows:

The Dean Goa Medical College/Respondents shall pay a sum of Rs.5,000/- (Rupees five thousand only) as compensation to each of the concerned employees. The compensation shall be paid within a period of one month from the date of receipt of the recommendation by the Dean, Goa Medical College/Respondents. It is made clear that it wouldbe open to Respondents to recover the said amount from the defaulting officials belonging to Goa Medical College, by initiating appropriate proceeding against such errant officials.

Proceeding No. 256/2013

This case has been disposed off on 17/07/2014 by making following recommendation:

1. *Steps should be taken by the Village Panchayat Siolim-Sodiem to shift the offices from the present place to another safe alternate place within 90 days.*
2. *Even though day to day office may be held for the time being in the present building, no meetings of the Panchayat including fortnightly meetings of the members, BalSabha meetings and the Gram Sabha meetings should take place in the present building and all such meetings should be held in the Government Primary School at Tropa either on Sundays or in the evening after the school is closed.*
3. *Steps should be taken by District Rural Development Agency (North) to carry out immediate repairs which should be completed within a period of six months.*
4. *If the experts attached to DRDA or concerned PWD authorities feel that it is not possible to repair the building, steps should be taken to construct a new building as expeditiously as possible within a period of one year.*

17. Few important cases in which the Commission took SuoMotucognizance during the period from 01/04/2014 to 31/03/2015:

Proceeding No. 164/2014:

In this case the Commission took suomotu cognizance of the news item which appeared in the local newspaper "Herald" dated 27/06/2014 under the caption "Shame on us: Woman stripped, private parts stuffed with chilli powder and brutally beaten." This Commission issued notices to 1) The Police Inspector, Mapusa Police Station, 2) The Superintendent of Police (North), Porvorim – Goa and 3) The Director General of Police, Panaji – Goa. Inquiry is in progress.

Proceeding No. 32/2015:

In this case the Commission took suomotu cognizance of the newspaper report which appeared in the "Herald" dated 19/02/2015 under caption "Calangute police pick up and brutally beat 19-year old on trumped up theft charges" and issued notices to 1) Police Inspector, Calangute Police Station, Calangute-Goa, 2) The Superintendent of Police (North), Porvorim – Goa, 3) The Director General of Police, Panaji – Goa, 4) The Secretary (Home),

Secretariat, Porvorim – Goa and 5) State of Goa through its Chief Secretary, Secretariat, Porvorim – Goa. The inquiry is in progress.

18. The other important cases based on complaints for the period from 01/04/2014 to 31/03/2015.

Proceeding No. 85/2014:

This complaint has been filed by the Complainant with the grievance stating therein that his father was working as a Headmaster at KeertiVidyalaya, Siolim – Goa. It is the grievance of the Complainant that his father was not paid salary since February, 2014 till date (as on the date of filing of the present complaint). This Commission took cognizance of the complaint and issued notices to the Headmaster, KeertiVidyalaya, Siolim – Goa and the Director of Education, Porvorim – Goa. The inquiry is in progress.

Proceeding No. 89/2014:

In this case the Complainant approached the Commission alleging that the Police Sub-Inspector attached to Pernem Police Station, Pernem – Goa has not conducted the investigation in a proper manner and the murder case of the brother of the Complainant was shown by the said PSI as accident case in collision with one Smt. SushmaNaik and Mr.PrakashSakharamGovekar. Taking cognizance of the matter, this Commission issued notices to 1) ShriUday D. Gaude, Police Sub-Inspector, Pernem Police Station, Pernem – Goa, 2) The Police Inspector, Pernem Police Station, Pernem– Goa. The inquiry of this case is in progress.

Proceeding No. 41/2015:

The main grievance of the Complainant in this case is that her Employer has not paid monthly salary to her for five months for the period from 01/04/2014 31/08/2014 thereby violating her fundamental right to live with dignity and decency. The inquiry is in progress.

This Annual Report for the year 2014-2015 is presented to the State Government as per Section 28 (1) of The Protection of Human Rights Act, 1993.

Sd/-
(A. D. Salkar)
Member

Sd/-
(J. A. Keny)
Member

Dated: 30/03/2016
Place: Panaji – Goa

