

GOA HUMAN RIGHTS COMMISSION

PANAJI – GOA

ANNUAL REPORT

2022 – 2023

Introduction

This is the twelfth Annual Report of the Goa Human Rights Commission for the year 2022-2023 (1st April 2022-31st March 2023), presented to the State Government, in terms of Section 28 (1) of the Protection of Human Rights Act, 1993.

2. The Protection of Human Rights Act, 1993 provides for the constitution of National Human Rights Commission, 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. As per Section 2 (1) (d), “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 the courts in India. The Constitution of India has also guaranteed a right to life to all persons under Article 21. This right has been given a new dimension by the Court in the last three decades by interpreting the right to life in a liberal way. It has been held in catena of cases that the right to life includes the right to live with dignity and decency and also in a clean and healthy environment. Thus, any infringement of fundamental right also amounts to violation of human rights.

4. This Commission has made several recommendations from time to time in respect of the violation of basic human rights such as delay in payment of pension to the Government servants, delay in payment of salaries to the government servants, police atrocities against public members, illegal detentions of the persons by the Police allegedly involved in commission of crimes, blocking of right of access of the persons to reach their respective properties, etc. These recommendations were widely reported by press which made public members aware about their fundamental rights and also about the basic human rights which are available to them under the law. 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 Goa 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.

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

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 as substituted by Protection of Human Rights (Amendment) Act, 2019, lays down that the State Human Rights Commission shall consist of

- (a) A Chairperson who has been a Chief Justice or a Judge 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 the period of this Annual Report was as under:

- (i) Justice Shri Utkarsh V. Bakre, Chairperson (Retired Judge of the High Court of Bombay) (01/04/2022 till 25/02/2023).
- (ii) Shri Desmond D'Costa, Member (Retired Principal District and Sessions Court Judge of the State of Goa) (01/04/2022 till 06/02/2023).
- (iii) Shri Pramod V. Kamat, Member (Former District and Additional Sessions Judge and former Law Secretary of the State of Goa) (01/04/2022 till 12/02/2023).

The Commission was not functioning from 26/02/2023 to 31/03/2023. Vide Notification No. 1/27/99-HD(G)/Vol.I/2873 dated 30/10/2023, Government of Goa, re-appointed Shri Desmond D'Costa, Retired Principal District and Sessions Court Judge of the State of Goa as Member and he has been authorized to act as Chairperson and Shri Pramod

V. Kamat, former District and Additional Sessions Judge and former Law Secretary of the State of Goa, as Member of the 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. A Police Officer of the rank of Inspector General of Police has not been provided by the State Government to this Commission so far, as there are no sufficient number of Police Officers of the rank of Inspector General of Police within the police force. During the period 01/04/2022 to 31/03/2023, an Officer of the rank of Police Sub-Inspector was functioning as head of the Police Investigation Team.

6. 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, suo motu or on a petition presented to it by the victim or any person on its behalf or on a direction or 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 purposes of treatment, reformation or protection, for the study of living conditions of inmates thereof and make recommendations 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 undertake and promote research in the field of human rights.*
- (g) 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;*
- (h) To encourage the efforts of non-governmental organisations and institutions working in the field of human rights;*
- (i) To such other functions as it may consider necessary for the promotion of human rights.*

7. Procedure adopted by the State Commission

The Goa Human Rights Commission has notified its own Regulation namely, the 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 suo motu 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.

Under Section 18 of the Protection of Human Rights Act 1993, provides the steps that the Commission can take under the Act, when the inquiry discloses the Commission of violation of human rights or negligence in the prevention of violation of human rights or abetment thereof by a public servant and the powers of the Commission to recommend to the concerned Government authority, the steps as provided in Section 18 (a) (i) or 18 (a) (ii) or to take further action as deemed fit, in terms of Section 18(a)(iii).

Under Section 18(e) of the Act, the Commission shall send a copy of its inquiry report together with its recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission.

Under Clause 17 of the Goa Human Rights Commission (Procedure) Regulation 2011, a copy of the inquiry report along with the copy of recommendation shall be sent to the authority calling upon them to furnish their comments on the report including action taken or proposed to be taken within one month from the date of receipt of the Order or recommendation made by the Commission.

8. Powers of the Commission

The State Commission, while inquiring into the complaints under the Act, have powers of a 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.*

9. 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.*

10. 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. Vide Order No. 01/03/2021-GHRC/HD(G)/3685 dated 22/10/2021, Government has approved 'Pattern of Assistance' as per which Rs.3 Crores were approved to the Commission. Thereafter, the Government vide Order No. 01/03/2021-GHRC/HD(G)/7877 dated 15/09/2022, enhanced the Grant-in-Aid 'Pattern of Assistance' w.e.f. 01/04/2022 from Rs.3 Crores to 5 Crores. The

Commission spent an amount of Rs. 293.96 (Rupees two hundred ninety three lakhs and ninety six thousand only), during the period from 01/04/2022 to 31/03/2023.

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.

The audited Annual Statement of Accounts for the financial year 2022-2023, has been submitted to the Home Department, Government of Goa, Secretariat, Porvorim-Goa, vide letter No. 4/66/2021-GHRC/113 dated 30/06/2023, as per the provisions in The Protection of Human Rights Act, 1993.

11. During the period from 01/04/2022 to 31/03/2023, 249 complaints were registered and 247 cases were disposed of.

12. Amongst the cases disposed of between 01/04/2022 to 31/03/2023, recommendations were made in sixteen cases. Some of the cases in which recommendations were made are as under:-

1) Proceeding No.64/2021

This case had been disposed of by Inquiry Report dated 20/04/2022.

The complaint was received in this Commission on 05/02/2021, in respect of the insufficient water supply to the villagers of Assagao village.

On perusing the complaint, the Commission by Order dated 12/03/2021, called for the report/reply from the Respondent, i.e. the Principal Chief Engineer, P.W.D., Altinho, Panaji-Goa.

The Respondent filed their reply on 19/04/2021. Thereafter, the Complainants filed their Rejoinder on 23/09/2021.

The Commission found that as per the copy of the Bacteriological Examination Report dated 25/08/2021, bearing No. EPCW/MC/12/2020-21 issued by the Directorate of Health Services, the sample of water analysed is found free from Coliform organisms and the water therefore can be recommended for human consumption after assessing its chemical analysis. The Analysis Report dated 25/08/2021, stated that the sample of water analysed does not confirm to the limits prescribed for drinking water and the water cannot be recommended for human consumption, as such.

In the present case, the Commission found that the Respondent has not taken effective measures for regular supply of water for human consumption to the Sonarkhed area of Assagao village and there has been human rights violations by the Respondent.

In view of the facts on record, the Commission recommended that the Respondent expedite the work of new water reservoir at DMC College and the work of installation of the water purifier plant, within 60 days from 20/04/2022 and till then to supply water fit for drinking through the borewell to which water purification plant is connected.

Comments/Action Taken Report was called for from the Respondent.

The Comments/Action Taken Report was received from the Respondent on 29/04/2022, that on completion and commissioning of the 300 m³ GLR, it is expected to resolve the water shortage issue at Sonarkhed and necessary measures are undertaken to meet the minimum demand of the consumers and to maintain the quality standards. The Inquiry Report along with Comments/Action Taken Report was forwarded for publication in the Government Gazette in terms of Section 18(f) of the Protection of Human Rights Act, 1993.

2) Proceeding No.11/2022

This proceeding was disposed of by Inquiry Report dated 25/07/2022.

The complaint dated 03/01/2022, was received by e-mail from the Complainant, complaining of issue to him of a faulty Disability Certificate and using barred expressions for addressing the persons with disabilities.

On perusing the complaint, the Commission by Order dated 01/02/2022, issued notices to the five Respondents, calling for their replies.

The Respondents No. 1 and 2, i.e. the Dean, Goa Medical College & Hospital, Bambolim-Goa and the Medical Superintendent, Goa Medical College & Hospital, Bambolim-Goa, respectively, filed their reply dated 09/03/2022. The Respondent No. 3, i.e. the Dean, Institute of Psychiatry and Human Behaviour, Bambolim-Goa, filed their reply dated 07/03/2022 and the Respondent No. 4, i.e. the Director, Directorate of Health Services, Campal, Panaji-Goa, filed their reply dated 01/03/2022. Thereafter, the Complainant filed his Rejoinder on 13/04/2022.

The Commission found that the Directorate of Social Welfare issued a Circular dated 06/04/2020, banning the use of the expression "handicapped", as the use of the said expression violates and undermines the dignity of the persons with disabilities which is so manifestly against the spirit of the Constitution of India.

The Commission found that by not following the provisions of the Rights of Persons with Disabilities Act, 2016 and the Circular of the Directorate of Social Welfare dated 06/04/2020, the human rights of the

Complainant have been violated. It appeared that the old printed forms are still in use containing the barred expression.

In the fact of the present case, the Commission accordingly, recommended as under:-

(i) The Respondents No. 1 and 2 to ensure that the old forms are withdrawn forthwith and the Disability Certificates be issued without the barred expression.

(ii) It is also recommended that the Disability Certificate dated 19/02/2021 be re-issued to the Complainant without the barred expression, within 30 days from today.

Copy of the Inquiry Report was sent to the Respondents No. 1 and 2, calling for their comments, including the action taken or proposed to be taken within a period of 30 days or on or before 25/08/2022, in terms of Section 18(e) of the Protection of Human Rights Act, 1993 and the same has not been received from the Respondents No. 1 and 2, to whom fresh reminder has been issued.

3) Proceeding No.27/2021

This proceeding was disposed of by Inquiry Report dated 11/08/2022.

The complaint dated 23/12/2020, was received from the Complainant and 26 other aggrieved pensioners, seeking revision of their pension by implementation of the 7th Pay Commission by Provedoria.

On perusing the complaint, the Commission by Order dated 28/01/2021, called for the report/reply of the then Respondent, i.e. the Director of Accounts, Panaji-Goa.

On 26/03/2021, on hearing the Complainant and the then Respondent, the Director of Accounts, Panaji-Goa, was dropped from the proceedings and the Director, Institute of Public Assistance (Provedoria), was added as the Respondent and their reply was called for.

The present Respondent filed their reply on 20/08/2021. Thereafter, the Complainant filed his Rejoinder on 20/09/2021.

The grievance of the Complainant and 26 other pensioners was that they were all employees of the Institute of Public Assistance (Provedoria), who retired prior to 01/11/2018. They stated that the employees of Provedoria who retired after 01/11/2018 are being paid pension as per the 7th Pay Commission benefits but for those who retired prior to 01/11/2018, they are being paid pension as per 6th Pay Commission benefits.

The Commission held that as the Government of Goa has extended the benefit of the 7th Pay Commission to the retired employees of the Provedoria who retired after 01/11/2018, it amounts to violation of human rights of the Complainant and other 26 aggrieved pensioners who have signed the complaint, that as they retired prior to 01/11/2018, they are not given the same benefits as those employees of the Institute of Public Assistance (Provedoria), who retired after 01/11/2018.

Accordingly, the Commission recommended that the Government of Goa, extends the benefits of the 7th Pay Commission to the Complainant and 26 aggrieved pensioners, who have signed the complaint and who have all retired prior to 01/11/2018.

Comments/Action Taken Report was called for from the Respondent.

The Comments/Action Taken Report dated 10/10/2022, was received from the Respondent, that the recommendation of the Commission has been moved to the Government for necessary action. The Inquiry Report along with the Action Taken Report was forwarded for publication in the Government Gazette in terms of Section 18(f) of the Protection of Human Rights Act, 1993.

4) Proceeding No.20/2022

This case had been disposed of by Inquiry Report dated 16/08/2022.

The Commission found that the Medical Officer of the Primary Health Centre, Chimbhel had passed the Order dated 18/10/2021 u/s 94 (A) 1 (a) of the Goa Public Health 1985, directing the Respondent, i.e. the Assistant Engineer, Water Supply, Div. III, Sub Div. I, Public Works Department, St. Inez, Panaji-Goa, to release the water connection to the house occupied by the Complainant in Survey No. 40/1, Chimbhel, as essential on health ground.

The reply of the Respondent indicated that the file was processed for release of the water connection but they received a letter from one Mr. Mangaldas C. Gauns that the eviction proceedings are presently going on in the Civil Court at Panaji and release of the water connection was kept in abeyance.

In the Judgment, in the case of **Commander Sureshwar D. Sinha and others vs Union of India and others, 2001(3) Scale 533**, the Apex Court has observed that there can be no denying the fact that right to life guaranteed under Article 21 of the Constitution would surely include a right to clean water.

The pendency of the civil dispute is a not a ground to deprive the complainant of water as water is a necessity.

The Commission found that the Respondent has violated the human rights of the Complainant by neglecting to comply with the Order.

The Commission found that in the interest of public health and to protect their human rights, it is necessary to issue the recommendation under Section 18(a) of the Protection of Human Rights Act, 1993.

The Commission recommended that the Respondent forthwith comply with the said Order dated 18/10/2021, of the Primary Health Centre, Chimbel and expedite the release of the water connection to the house occupied by the Complainant, within 30 days.

Comments/Action Taken Report was called for from the Respondent.

The Action Taken Report dated 14/09/2022, was received from the Respondent, that the domestic water connection to the Complainant was released on 09/09/2022. The Inquiry Report along with the Action Taken Report was forwarded for publication in the Government Gazette in terms of Section 18(f) of the Protection of Human Rights Act, 1993.

5) Proceeding No.45/2022

This proceeding was disposed of by Inquiry Report dated 19/08/2022. The complaint dated 23/03/2022, was received from the Complainant.

On perusing the complaint, the Commission by Order dated 30/03/2022, called for the reports from the four Respondents.

The Respondent No. 1, i.e. the Health Officer, Primary Health Centre-Betki, Betki-Goa, filed their reply on 17/06/2022. The Respondent No. 2, i.e. the Member Secretary, Goa State Pollution Control Board, Saligao, Bardez, Goa, filed their reply on 22/06/2022. The Respondent No. 3, i.e. the Director, Directorate of Health Services, Campal, Panaji-Goa, filed their reply on 29/04/2022 and the Respondent No. 4, i.e. the Secretary, Village Panchayat of St. Estevam, Tiswadi-Goa, filed their reply on 23/06/2022.

On considering the submissions of the Parties, the Commission found that the grievance of the Complainant is that the authorities are not taking adequate steps in accordance with the provisions of the law applicable and smoke still enters his house from the base of the chimney of the house of his neighbours.

The Commission recommended that the Respondent No. 4 complies with the directions of the Goa State Pollution Control Board, to ensure that proper smoke chullas with the chimney of adequate height are used by the neighbours of the Complainant, Mr. Salvador Gama and his family, so that the smoke does not enter the house of the Complainant from the base of the chulla or any other part thereof.

Comments/Action Taken Report was called for from the Respondent No.4.

The Comments/Action Taken Report dated 15/10/2022, was received from the Respondent No.4, that the directions of the Commission have been already complied with and the Party has already installed smoke chullas with chimney of adequate height as per the recent photograph attached. The Inquiry Report along with Comments/Action Taken Report was forwarded for publication in the Government Gazette in terms of Section 18(f) of the Protection of Human Rights Act, 1993.

6) Proceeding No.48/2022

This proceeding was disposed of by Inquiry Report dated 07/09/2022.

The Complainant, Shri John Abreu, retired as a Municipal Engineer, Grade-I, on 31/12/2019. He received his Retirement Benefits only on 12/08/2021, but no interest was paid to him. As such, he approached this Commission by his complaint dated 28/02/2022.

In their reply, the Respondent, the Commissioner, Corporation of the City of Panaji, agreed in principle that the interest at the rate of 3% per annum on the principal amount is to be paid.

In ***Pranesh Kumar Kar vs. The State of West Bengal and others, 2022 LiveLaw (Cal) 221***, decided on 19th May 2022, it was held by the Calcutta High Court that it is the bounden duty of the State to disburse the gratuity and pension amount on the due date. It further held that if the State has failed to do so and has released such amount after unexplained delay, it is obliged to pay interest at the rate of 5% per annum.

In the facts of the present case, the Commission recommended that the Respondent, the Commissioner, Corporation of the City of Panaji, pay the Complainant, interest calculated of the period from 31/12/2019 to 11/08/2021, at the rate of 5% per annum on the delayed payment of the principal amount of the retirement benefits of the Complainant.

Comments/Action Taken Report was called for from the Respondent.

The Action Taken Report dated 21/11/2022 was received from the Respondent, that they have initiated payment through NEFT to the Complainant on 31/10/2022 of Rs.3,82,836/-, as recommended by the Commission. The Inquiry Report along with the Action Taken Report was forwarded for publication in the Government Gazette in terms of Section 18(f) of the Protection of Human Rights Act, 1993.

7) Proceeding No.44/2020

This case had been disposed of by Inquiry Report dated 22/09/2022.

The original Complainant, Shri Ulhas Kambli had filed his complaint dated 11/11/2019.

The Respondent i.e. the Assistant Registrar, Office of the Assistant Registrar of Co-operative Societies, South Zone, Margao-Goa, filed their reply on 17/03/2022. On behalf of the Complainant, the Rejoinder was filed on 17/05/2022.

The Commission found that the complaint was filed in respect of the leakage in Flat No. 10 in the Swaraj Co-operative Housing Society at New Vaddem, Vasco. The complaint dated 11/11/2019, was addressed to the Respondent and a copy was endorsed amongst others to this Commission. The grievance raised in the complaint is in respect of the leakage into the Flat No. 10 and the lack of action by the Swaraj Co-operative Housing Society.

The Commission found that the grievance of the Complainant has been raised with the Respondent right from the year 2018 in respect of the leakage issue from Flat No. 14. Though the Respondent has stated that they have issued directions to the Managing Committee of the Society, the fact remains that the issue of the leakage has not been adequately attended to by the Managing Committee of the Society, whose responsibility it is under Bye-law No.149, to maintain the property of the Society in good condition at all times.

Accordingly, the Commission recommended that the Respondent acts on the complaint dated 11/11/2019, by ensuring that the Managing Committee of the Swaraj Co-operative Housing Society Ltd., abides by the Bye-laws No. 149 to 153 applicable to the said Co-operative Housing Society Ltd., so as to prevent any further leakage in the flat No. 10, by carrying out the necessary repairs for maintenance of the Society's property, within 60 days.

Copy of the Inquiry Report was sent to the Respondent, calling for their comments, including the action taken or proposed to be taken, in terms of Section 18(e) of the Protection of Human Rights Act, 1993.

8) Proceeding No.253/2021

This case had been disposed of by Inquiry Report dated 08/11/2022.

The complaint dated 22/12/2021, was received from the Complainant, Shri Sudhir S. Kubde, praying for refund of the amount of Rs.2,11,169/- recovered from his Gratuity Fund, after his retirement as a Ex-Group Instructor on 31/10/2017.

The Respondent No. 1, i.e. the Director, Directorate of Skill Development & Entrepreneurship, Panaji-Goa, filed their report dated 22/02/2022. The Respondent No. 2, i.e. the Principal, Sattari Government Industrial Training Institute, Honda, Sattari-Goa filed their report dated

10/02/2022. The Respondent No. 3, i.e. the Director, Directorate of Accounts (Pension Section), Panaji-Goa, filed their reply on 08/02/2022.

In the facts of the present case, the Commission accordingly recommended to the Respondent No. 1 that in view of the law laid down by the Supreme Court as outlined above, the Respondent No. 1 pursues the matter with the Finance Department for refund of the said amount of Rs.2,11,169/- (Rupees two lakhs eleven thousand one hundred sixty nine only), to the Complainant.

Comments/Action Taken Report was called for from the Respondent No.1.

The Action Taken Report dated 09/01/2023, was received from the Respondent No.1 that the recommendation of the Commission was accepted by the Government and sanction was accorded for refund of amount of Rs.2,11,169/- to the Complainant. The Inquiry Report along with the Action Taken Report was forwarded for publication in the Government Gazette in terms of Section 18(f) of the Protection of Human Rights Act, 1993.

9) Proceeding No.09/2022

This case had been disposed of by Inquiry Report dated 08/11/2022.

The complaint dated 07/01/2022, was received from the Complainant, Shri Stephen Coutinho, praying for refund of the amount of Rs.1,79,959/- recovered from his Gratuity Fund, after his retirement as a Ex-Group Instructor on 30/06/2016.

The Respondent i.e. the Director, Directorate of Skill Development and Entrepreneurship, Panaji-Goa, submitted their report on 12/05/2022.

In the facts of the present case, the Commission accordingly recommended to the Respondent that in view of the law laid down by the Supreme Court as outlined above, the Respondent pursues the matter with the Finance Department for refund of the said amount of Rs.1,79,959/- (Rupees one lakh seventy nine thousand nine hundred fifty nine only), to the Complainant.

Comments/Action Taken Report was called for from the Respondent.

The Action Taken Report dated 09/01/2023, was received from the Respondent No.1 that the recommendation of the Commission was accepted by the Government and sanction was accorded for refund of amount of Rs.1,79,959/- to the Complainant. The Inquiry Report along with the Action Taken Report was forwarded for publication in the Government Gazette in terms of Section 18(f) of the Protection of Human Rights Act, 1993.

10) Proceeding No.177/2021

This proceeding was disposed of by Inquiry Report dated 08/11/2022.

The complaint dated 08/07/2021, was filed by some of the residents of the Muslim Community of Corlim Village, before the Secretary/ Sarpanch of Corlim Village Panchayat and a copy was forwarded to this Commission.

The Respondent, i.e. the Secretary/ Sarpanch of Corlim Village Panchayat, Corlim, Tiswadi-Goa, filed their reply on 20/10/2021.

Thereafter, the Complainant filed their Rejoinder on 16/06/2022.

In the facts of the present case, the Commission recommended to the Respondent to ensure that cremation grounds and burial grounds are made available to the persons of all faiths of the Village Panchayat area of Corlim, so that the basic human rights of all persons are protected.

Copy of the Inquiry Report was sent to the Respondent, calling for their comments, including the action taken or proposed to be taken within a period of 60 days or on or before 09/01/2023, to ensure that cremation and burial grounds are made available to the persons of all faiths, in the area of the Village Panchayat of Corlim, in terms of Section 18(e) of the Protection of Human Rights Act, 1993. However, the same has not been received from the Respondent, to whom fresh reminder has been issued.

11) Proceeding No.120/2020

This case had been disposed of by Inquiry Report dated 12/12/2022.

On going through the newspaper report which appeared in the local daily 'Gomantak Times' dated 25/05/2020, under the caption, "**Taleigao farmers unhappy over chocking of St. Inez creek, new building projects**", the Commission took Suo Motu cognizance of the newspaper report and called for the reports from the Respondents No. 1 and 2.

During the course of the proceedings, Respondents No. 3 to 12 were also added to the proceedings and their replies were sought.

The Respondents filed their replies and additional replies, except for Respondents No. 5 and 12. So also, the Respondent No. 3 filed his Rejoinder.

The reply of the Respondent No. 1 indicates that the Directorate of Agriculture had carried out the inspection at Taleigao and adjacent areas with the help of the Respondent No.3 and other residents of Taleigao village. The paddy fields opposite Sao Miguel School upto the Community Centre were shown, in which a passage was made from under the road leading into the fields across and there was a thick black liquid flowing into the fields. It was informed that it was sewage water from the houses/buildings present across the road. So also, the reply of the Respondent No. 1 indicates that they had also carried out inspection at the base of Nagalli hills in Nagalli ward from opposite the Church Cemetery till Chamunda Residency and

across the road, near Fern Residency, and it was noticed that the fields were submerged with a lot of greyish black water and looked like a swamp. The reply of Respondent No. 1 indicates that there was no cultivation in the fields, though earlier, paddy was cultivated in the kharif season followed by vegetables in the rabi season and the residents/farmers of the village informed that the flow of water from the creek is through the channels which go right up to the reservoir at Camarabhat and at the time of inspection, it was noticed that the water at the foothills of Nagalli ward was black and thick and there was a sewage like stench emanating from the water and the farmers and residents indicated that the thick black liquid was due to discharge of septic waste into the fields by the Housing complexes situated on the slopes of Nagalli hills and areas surrounding the fields.

The report of the Respondent No. 1 also indicates that they had noticed that several fields in Caranzalem were damaged due to the influx of the thick black liquid and were made unfit for cultivation and further towards Adarsh/Caranzalem Circle, the fields were also submerged and ruined with thick black liquid and raw sewage has been discharged into the fields by the residential colonies from the neighbourhood.

As per the report of the Respondent No.1, the Sarpanch had informed that the Panchayat had written to the Housing societies to stop pumping their raw sewage in the fields.

The reply of the Respondent No. 3 as well as the Rejoinder of the Respondent No. 3 indicates that the building complexes which have mushroomed, either do not have a Sewage Treatment Plant or are not connected to the underground sewer line and generate a large amount of waste water which is pumped either into the creek directly or into storm water drains.

The reply of the Village Panchayat of Taleigao i.e. Respondent No. 7, is only in respect of the stop notice which the Panchayat had issued to the Respondent No.10, M/s. Alcon Construction Pvt. Ltd. regarding the construction of the retaining wall abutting the Nallah at Tonca.

In May 2022, the National Human Rights Commission issued an Advisory to the Centre, States, UTs and High Courts to prevent, minimise and mitigate impacts of Environmental Pollution and Degradation on Human Rights. Issuing the Advisory, the Commission has observed that in spite of having one of the world's best statutory and policy framework for environment protection, India is experiencing a serious problem of air and water pollution and ecological degradation causing impediments in the enjoyment of basic human rights. One of the important recommendations is that each Local Body should establish an environmental cell to plan,

supervise and monitor various activities to prevent, minimize and mitigate environmental pollution/degradation and for waste management.

Accordingly in this respect, the Commission found the necessity to issue recommendations to the Village Panchayat of Taleigao for dealing with this issue of houses/buildings releasing the sewage water into the fields in the area.

Accordingly, in the present case, the Commission recommended that the Respondent No.7, the Secretary, Village Panchayat Taleigao, shall within a period of 60 days, take necessary action for stopping the discharge by houses/housing complexes on the slopes of Nagalli hills and areas surrounding the fields in Taleigao, of raw sewage into the area.

Copy of the Inquiry Report was sent to the Respondent No. 7, calling for their comments, including the action taken or proposed to be taken within a period of 60 days or on or before 14/02/2022, in terms of Section 18(e) of the Protection of Human Rights Act, 1993 and the same has not been received from the Respondent No.7, to whom reminder has been issued.

Sd/-
(Desmond D'Costa)
Acting Chairperson/Member
Goa Human Rights Commission

Sd/-
(Pramod V. Kamat)
Member
Goa Human Rights Commission

Dated: 01/12/2023

Place : Panaji – Goa.

