

GOA HUMAN RIGHTS COMMISSION

PANAJI – GOA

ANNUAL REPORT

2023 – 2024

Introduction

This is the thirteenth Annual Report of the Goa Human Rights Commission for the year 2023-2024 (1st April 2023-31st March 2024), 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.

6. **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:

The Commission was not functioning from 26/02/2023 to 30/10/2023. 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.

7. **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.

8. 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.

9. 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.

10. 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.

11. 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. During this period, the Government provided Grant-in-Aid of Rs.585.72 lakhs (Rupees five hundred eighty five lakhs and seventy two thousand only). The Commission spent an amount of Rs.289.62 lakhs (Rupees two hundred eighty nine lakhs and sixty two thousand only), during the period from 01/04/2023 to 31/03/2024.

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 2023-2024, will be submitted by the end of June 2024 to the Home Department, Government of Goa, Secretariat, Porvorim-Goa, as per the provisions in The Protection of Human Rights Act, 1993.

12. During the period from 01/04/2023 to 31/03/2024, 277 complaints were registered and 292 cases were disposed of.

13. Amongst the cases disposed of between 01/04/2023 to 31/03/2024, recommendations were made in eleven cases. The cases in which recommendations were made are as under:-

1) Proceeding No.177/2022

This proceeding was disposed of by Inquiry Report dated 29/11/2023.

The complaint dated 20/09/2022, was received from the Complainant, i.e. Mrs. Durga C. Borkar, stating that she worked for about 37 years as a Government Primary Teacher from 10/03/1984 and retired on 31/07/2021. When she received her pension and retirement benefits, she found that an amount of Rs.3,28,554/- was deducted from her dues.

On perusing the complaint, the Commission issued notices to the two Respondents, i.e. (1) The Director of Education, Porvorim-Goa and (2) The Zonal Officer, North Educational Zone, Mapusa, Bardez-Goa.

The Respondent No. 1 filed their reply dated 28/11/2022. After which, the Complainant filed her Rejoinder dated 28/02/2023.

At the stage of hearing, the Commission heard the Complainant and also heard Shri D. Chawdikar, Deputy Director of Education (Legal), on behalf of the Respondents.

In the present case, the Commission found that the Complainant retired as Government Primary Teacher, on 31/07/2021 and at the time of payment of her retirement benefits, an amount of Rs. 3,28,554/- was deducted from her gratuity amount. The Commission finds that the Complainant was a Class-III employee and as per the judgment of the Supreme Court, the recovery of employees belonging to Class-III is impermissible in law.

In the facts of the present case, the Commission accordingly recommended that the Complainant re-applies to the Respondent No.1 for refund of said amount of Rs.3,28,554/- within seven days and the Respondent No.1 shall forthwith decide the application within three weeks thereafter.

On the Inquiry Report being sent to the Respondent No.1, the Order dated 19/01/2024, was passed by the Respondent No.1, sanctioning the refund of Rs. 3,28,554/-, to the Complainant. Thereupon, 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.37/2022

This proceeding was disposed of by Inquiry Report dated 11/12/2023.

The complaint dated 10/02/2022, was received in this Commission, by the Complainant, i.e. Mr. Joseph Barreto, complaining of discrimination by denying Government relief for destruction caused by floods on 23/07/2021, when the Dudhsagar River overflowed and flooded several properties at Collem.

On perusing the complaint, the Commission by Order dated 04/03/2022, called for the report from the Respondent, i.e. the District Magistrate, South Goa, Margao, Salcete-Goa.

The Respondent filed their Reply on 07/04/2022. Thereafter, the Complainant filed his Rejoinder on 24/06/2022. The Respondent filed their further Reply on 09/01/2023, followed by the Reply of the Complainant thereon, on 23/02/2023.

The complaint has been filed stating that on 23/07/2021, there was extensive flooding due to the overflowing of Dudhsagar River, causing substantial damage to life and property of many persons.

The Complainant had stated that after his emails and telephonic calls to the Respondent, the Deputy Collector sent his staff and Talathi of Collem on 28/07/2021, for estimating the loss caused to his staff, who lived in the staff quarters in his property and to their personal belongings and they recorded the damage of his staff members as amounting to Rs.2,82,550/-.

The Complainant has stated that the Government had given money to 157 villagers of Collem and Shigao Panchayat of Dharbandora Taluka, who were paid between Rs.6000 to Rs. 2,00,000/-.

The Complainant also stated that he came to know that he has not been compensated for the damages of his property namely, 'Jungle Book', as the Government stated that it is a commercial venture. But he stated that the loss of his staff is a personal loss and they are entitled to be compensated.

In the reply, the Respondent has stated that the Government denied relief to Mr. Joseph Barreto for destruction caused by the floods to his Agro Tourism Properties, namely, 'Jungle Book', situated in Survey No. 58/5, 58/11 and 56 at Bazarwado, Collem, Dharbandora-Goa, since it is a commercial property and it does not come within the ambit of the guidelines issued by the Government for granting gratuitous relief under the Goa Disaster Management Fund Scheme and the State Disaster Response Fund Scheme.

The Commission had gone through the documents produced by the Respondent, namely, the Notification dated 03rd February 2008 and published in the Official Gazette, Series I, on 13th March 2008, of the Goa Disaster Management Fund Scheme, as well as the Norms of Assistance from the State Disaster Response Fund and the National Disaster Response Fund, issued by the Government of India, Ministry of Home Affairs on 08/04/2015.

The Commission found that the Complainant is not seeking any assistance from the Respondent in respect of the damages that his commercial venture Jungle Book Resort, had sustained. However, the Complainant is right that his staff, who suffered loss of their personal belongings in the floods of 23/07/2021, were entitled to be compensated as per the assessment made by the Government officials who had visited the properties on 28/07/2021.

Accordingly, the Commission recommended that the Respondent awards the compensation to the staff who were living in the Quarters in the property of the Complainant at Collem, as estimated by the Government officials on 28/07/2021, 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. The reply dated 18/01/2024, was received that the Disaster Management Cell of the Collectorate, South Goa District, has been requested to take necessary action in the matter.

3) Proceeding No.273/2016

This case had been disposed of by Inquiry Report dated 18/12/2023.

The complaint dated 14/10/2016, was received in this Commission from the Complainant, Adv. Shri Aires Rodrigues, in respect of the Police personnel in the State of Goa being deployed on duty during the 2016 BRICS Summit and being forced to work for long hours in inhuman conditions without food, water and toilet facilities.

On perusing the complaint, the Commission had called for the report from the Respondents No. 1 and 2, i.e. (1) The Chief Secretary, Government of Goa, Secretariat, Porvorim-Goa and (2) The Director of General of Police, Police Headquarters, Panaji-Goa.

The Respondents No. 1 and 2 had filed their replies.

During the proceedings, the Commission had also directed the Secretary of the Commission along with the Deputy Superintendent of Police attached to the Commission, to visit the site and submit a detailed report

about the working conditions of the Police personnel who were posted on duty.

The said report was placed on record on 18/10/2016.

The proceedings were disposed of earlier by the Inquiry Report dated 30/04/2019.

This Inquiry Report came to be challenged before the High Court of Bombay at Goa by the present Respondent No.3, i.e. M/s. Amoncar Classic Caterers, by filing Writ Petition No.48/2020. The said Writ Petition was disposed of by the oral judgment of the High Court dated 18/02/2020, quashing the earlier Inquiry Report of this Commission dated 30/04/2019 and remanding the matter to this Commission for adjudication after affording reasonable opportunity to the Parties.

Thereafter, the present Respondent No.3 came to be added as a Party and filed his reply.

Subsequently, the matter was fixed for the evidence of the Parties and on behalf of the Respondent No.3, Shri Pradosh Amoncar had deposed as RW1 and was cross-examined by the Complainant.

At the stage of final hearing, the Complainant though served, remained absent, but forwarded an application that he has nothing further to submit and based on the records, appropriate Orders be passed, to bring the proceedings to a logical conclusion. The Commission heard Adv. Shri D. G. Shet for the Respondent No.1, Adv. Shri K.L. Bhagat for the Respondent No.2 and Adv. Shri Nikhil Pai for the Respondent No.3.

During the course of the proceedings, the Commission by Order dated 18/10/2016, had directed the Chief Secretary, Government of Goa, to conduct a thorough investigation and submit a detailed report to this Commission.

The Chief Secretary had challenged the said Order by filing Writ Petition No.472/2018, before the High Court of Bombay at Goa, which was decided by Order dated 04/09/2018.

It had been observed therein that based on the earlier Order of the High Court on 24/04/2018, the Chief Secretary had conducted an inquiry and had filed the report in the High Court and the said report was also forwarded to this Commission.

It is seen from the report of the Chief Secretary dated 19/06/2018, that after examining eight witnesses including the present Respondent No.3, the then Chief Secretary had submitted his report.

So also, in Writ Petition No.472/2018, the High Court by Order dated 04/09/2018, observed that the Advocate General had placed on record a Circular dated 31/07/2018, issued by the Government stating that instructions were issued by the Government to streamline the arrangement of food, water and toilet facilities to the police personnel whenever pre-planned larger scale deployment of the Police force is made and it further stated that the said instructions be strictly followed and deviation and non-compliance of the instructions will be viewed seriously by the Government.

One of the questions before this Commission was whether during the supply of food items to the police personnel from 14/10/2016 to 17/10/2016, the human rights of the police personnel were affected by serving uncooked and unhygienic food items.

RW1, Shri Pradosh Amoncar has deposed before this Commission that the Respondent No.3 was awarded the Supply Order dated 13/10/2016 for supply of breakfast, lunch, evening tea and dinner for 5000 police personnel deployed for the BRICS Summit for four days from 14/10/2016 to 17/10/2016.

He also deposed that the office of the Respondent No.2 had provided the Respondent No.3 with a place with a warming station on Government land which was used for warming and packaging food items and all the food was prepared in a Government approved and certified Central Kitchen in Bicholim and was then sent to the warming station from where it was redistributed to the police personnel. It is also in his deposition that all the warming of the food and repackaging was done in a hygienic manner and by maintaining highest standards of cleanliness and hygiene and that no cooking was carried out in the stations provided for warming the food for redistribution.

In his cross-examination, he reiterated that the food for the entire day was being prepared at the Central Kitchen in Bicholim and then the food was being transferred to a place near the Verna Police Station, allotted by the Superintendent of Police, South.

In respect of the observation 9 of the Inquiry Report of the Directorate of Foods & Drugs Administration dated 17/10/2016 that no registration Certificate/License as required under FSS Act, 2006 was available for verification, he deposed that from the spot after conclusion of the catering, he had taken away all his documents to Bicholim, after which the Food and Safety Officer reached the spot. He further deposed that he left the spot on 17/10/2016 at 1.30 p.m. and the insect killer, dustbin and No Smoking board, may have been removed by the time of the inspection.

On going through his evidence, as rightly submitted by Adv. Shri Nikhil Pai, the Commission finds that he had not been discredited in his cross-examination and his evidence brought out that he had been supplying food items for 5000 police personnel for a day, during the four days of the BRICS Summit, 2016.

The Complainant had sought to examine six witnesses but none of them had been examined and in consequence, no evidence had been produced on record by the Complainant to support his case of unhygienic food being supplied to the Police personnel during the BRICS Summit.

In the facts of the present case, the Commission found that no material had come on record bringing out the violation of human rights of the Police personnel during the BRICS Summit by the Respondent No.3, as the Contractor appointed by the Respondent No.2. Accordingly, the Interim Order of this Commission dated 18/10/2016, that the payment of the contractor i.e. the present Respondent No.3 should be withheld pending inquiry into the entire episode, was vacated.

Taking into the facts and the circumstances of this case, the Commission made the following recommendations:

- i. *The Respondents No.1 and 2 shall strictly follow the suggestions made by the Chief Secretary vide report dated 19/06/2018 submitted before the Hon'ble High Court in Writ Petition No.472/2018.*
- ii. *The Respondents No.1 and 2 shall also strictly follow the Circular dated 31/07/2018 submitted before the Hon'ble High Court in Writ Petition No.472/2018.*
- iii. *The Director General of Police/Respondent No.2 shall ensure that the police personnel deployed for any pre-planned event are not overburdened and sufficient rest is given to them after performance of strenuous duty to avoid any health problem of the police personnel posted for hard and strenuous duty.*
- iv. *The Chief Secretary, Government of Goa/Respondent No. 1 shall ensure when catering contracts are to be awarded, that the tenders are floated at least 15 days in advance and during the events, the Directorate of Food and Drugs Administration be involved in checking the quality of food by drawing samples as may be required for necessary action.*

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, in terms of Section 18(e) of the Protection of Human Rights Act, 1993 and the comments and Action Taken Report are awaited.

4) Proceeding No.175/2021

This proceeding was disposed of by Inquiry Report dated 18/12/2023.

The complaint dated 25/08/2021, was received in this Commission for release of pension of the Complainant, i.e. Shri Suryakant D. Kavlekar.

On perusing the complaint, by Order dated 03/09/2021, the Commission called for the reports from the two Respondents, i.e. (1) The Chief Town Planner, Town & Country Planning Department, Patto, Panaji-Goa and (2) The Director of Accounts, Directorate of Accounts, Panaji-Goa.

The Respondent No.1 filed their reply on 30/09/2021 and the Respondent No.2 filed their reply on 07/10/2021.

Thereafter, the Complainant filed his Rejoinder on 06/12/2021.

Subsequently, the Respondent No. 1 filed their further reply on 27/02/2023.

The Commission heard the Complainant and Adv. Ms. Harsha Naik for the Respondent No.1.

The complaint had been filed in respect of non-release of the pension of the Complainant who had retired from Government service on superannuation on 30/04/2021 and as his pension case was not settled till 25/08/2021.

The Respondent No. 1 had filed their reply dated 29/09/2021, that they had forwarded the pension papers to the Respondent No.2 on 09/11/2021, but they were returned by the Respondent No. 2.

The Respondent No.1 also stated that the question of releasing the excess amount paid to the Complainant came to the notice of the Chief Town Planner and the Respondent No.1 had issued a letter to the Respondent No.2 on 12/10/2022, for recovery of the amount of Rs.2,53,789/- from the gratuity of the Complainant. However, the Respondent No.2 had stated that since the matter is sub-judice before this Commission, decision of the recovery pending in the present case may be taken accordingly.

The question before this Commission is whether the Respondents can recover the amount of Rs.2,58,789/- from the Complainant on the grounds that the excess amount was paid to him many years back, as conceded by the Respondent No.1 in their additional reply of 27/02/2023.

In the facts of the present case based on the judgments of the Supreme Court which has been accepted by the State of Goa, the recovery from the employees belonging to Group C and D are impermissible. So also,

the recovery is impermissible from the retired employees or from the employees who are due to retire within one year, of the order of the recovery.

The Complainant had retired as a Group C employee on 30/04/2021. Only after his retirement, the Respondents cannot recover the so called excess amount paid to him many years back of Rs. 2,58,789/-

Accordingly, the Commission recommended that the Respondents No. 1 and 2, do not recover the excess amount paid many years back of Rs. 2,58,789/- from the Complainant, who had already retired on 30/04/2021, being a Group 'C' employee.

Copy of the Inquiry Report was sent to the Respondents, calling for their comments, including the action taken or proposed to be taken and the Order dated 12/03/2024, was received from the Respondent No.1, sanctioning the waiver of the amount of Rs.2,58,789/-. 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.

5) Proceeding No.76/2023

This case had been disposed of by Inquiry Report dated 18/01/2024.

The complaint was received from the Complainant, Shri Edwin Vaz, on 16/03/2023, stating that he had retired as a Vocational Instructor from the Directorate of Skill Development & Entrepreneurship, Panaji, on 30/06/2016. He found that an amount of Rs.1,30,556/- was recovered from his Gratuity towards overpayment made to him from January 2006 to 30/06/2016, by corrigendum dated 05/07/2016, after his retirement. He stated that he had made representations to the Respondent but the same were not considered by the Government. Accordingly, he filed the present complaint for refund of his dues of Rs.1,30,556/-

On perusing the complaint, the Commission by Order dated 06/12/2023, called for the report from the Respondent, i.e. the Director, Directorate of Skill Development of Entrepreneurship, Patto, Panaji-Goa.

The Respondent filed their report dated 08/01/2024 conceding that the amount of Rs.1,30,556 was recovered from his retirement gratuity.

The Commission heard the Complainant and heard Ms. Siya Parsekar, Office Superintendent, on behalf of the Respondent.

In their reply, the Respondent stated that they had moved a proposal to give the benefits to the Complainant, to the Finance (R & C) Department but the same was not considered.

As held by the Supreme Court in (2015) 4 SCC 334, recoveries from the retired employees or the employees who are due to retire within one year of the order of recovery, are impermissible. So also recoveries from Group 'C' and D government employees are barred.

The Respondent, in their reply, in para 6, had in fact stated that the Central government had issued the office memorandum dated 02/03/2016, regarding waving of recovery of wrongful/ excess payments made to Group 'C' Government servants, which was adopted by the Government of Goa and circulated vide office Memorandum dated 07/03/2017.

The Commission found that the Complainant herein, who was a Group C employee, had retired on superannuation on 30/06/2016. Thereafter by corrigendum dated 05/07/2016, the excess amounts paid of Rs. 1,30,556, were ordered to be recovered from his Gratuity amount, which was impermissible.

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 pursue the matter afresh with the Finance Department for refund of the said amount of Rs.1,30,556/- (Rupees one lakh, thirty thousand, five hundred fifty six only), to the Complainant.

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. Thereupon, the Respondent submitted their Compliance Report dated 15/03/2024, that the Government has accepted the recommendation of the Commission and has sanctioned a refund of Rs. 1,30,556/-, to the Complainant. Accordingly, 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.

6) Proceeding No.24/2023

This case had been disposed of by Inquiry Report dated 14/02/2024.

The complaint dated 17/01/2023, was filed by the Complainant, Mr. Chris Fernandes, who is the resident of La Campala Residential Colony, Miramar, Panaji, to ensure that the roads are restored to their previous state on war footing as the dug up roads pose impossible challenges to him, senior citizens and differently abled persons.

On perusing the complaint, the Commission by Order dated 22/02/2023, called for the report/reply from the two Respondents, i.e., (1)

The Managing Director, Imagine Panaji Smart City Development Limited, Panaji-Goa and (2) The Chief Engineer, Public Works Department, Altinho, Panaji-Goa.

The Respondent No.1 filed their reply dated 27/03/2023 and the Respondent No. 2 filed their reply on 02/02/2024.

At the stage of hearing, Mrs. Preeti Naik, Assistant Manager (Civil) was heard on behalf of the Respondent No.1 and Mrs. Rashmi Shirodkar, Assistant Engineer, was heard on behalf of Respondent No.2. The Complainant remained absent.

The Commission had gone through the complaint, the reply of the Respondent No.1 and the reply of Respondent No.2.

The reply of Respondent No. 1 indicated that all executing agencies have been directed to ensure that proper backfilling is carried out and till such time, to ensure that the project site is well barricaded with proper signage.

In the reply dated 07/02/2024, the P.W.D. stated that they are carrying out of work of upgradation of sewerage network in Panaji and surrounding areas under Atal Mission for Rejuvenation and Urban Transformation (AMRUT). They stated that the P.W.D. will take necessary measures and the restoration will be done as soon the work is completed.

On going through the complaint and the replies of the Respondents, the Commission recommended that the Respondents take necessary steps at the earliest to ensure that the roads around La Campala Residential Colony, Miramar, Panaji-Goa, are restored to their previous state within 90 days.

Copy of the Inquiry Report was sent to two Respondents, 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 and the same is awaited.

7) Proceeding No.106/2022

This proceeding was disposed of by Inquiry Report dated 22/02/2024.

The complaint dated 07/06/2022, was received from the Complainant, Urmila Umesh Gaonkar, praying for compensation on account of the wound caused to her resulting from the bullet fired at the Lakherem Firing Range of the Goa Police at Bicholim-Goa.

On perusing the complaint, the Commission by Order dated 16/06/2022, issued notices to the two Respondents, i.e. (1) The Director

General of Police, Police Headquarters, Panaji-Goa and (2) The Incharge, Firing Station, Ona, Maulinguem, Bicholim-Goa, calling for their replies.

The Respondent No.1 filed their reply on 27/07/2022 and the Respondent No.2 filed his reply on 21/07/2022.

Thereafter, the Complainant filed her two Rejoinders to the two replies, on 10/11/2022.

The Commission heard Adv. Shri Rahul Kamat for the Complainant and Police Prosecutor, Mrs. A.R. Carvalho for the Respondents.

The Commission had gone through the complaint, the replies of the Respondents, the Rejoinders of the Complainant, the documents on record and had considered the submissions on behalf of the Complainant and on behalf of the Respondents.

The complaint had been filed stating that she resides at Maulinguem and at a distance of around 3 kms. from her house, there is a firing range of the Department of Police and on 27/01/2021, when she was working at her residence, a bullet from a gun fired from the Lakherem Firing Range penetrated and hit her right leg. She took medical treatment for around eight to ten days but as the swelling of her leg had not disappeared, she was taken to the Goa Medical College on 03/02/2021, wherein she was admitted and she had to undergo a surgery for removing a bullet from her right leg and was discharged on 06/02/2021.

She stated that after her discharge, her physical capability to work was badly affected. It is her case that she was earning her daily livelihood by working in various houses and her husband is also a daily wage labourer. She has stated that due to the negligence of the Police Department, she has suffered and as such, she has approached this Commission for compensation from the Police Department.

The Respondent No. 1, i.e. the Director General of Police, filed his reply through the Superintendent of Police stating that they had obtained detailed reports from the Police Inspector, Bicholim Police Station and the Incharge, Firing Range, Ona Maulinguem, Bicholim-Goa.

The Respondent No. 1 stated that on 02/02/2021, the Bicholim Police Station had received written information from the Complainant that on 27/01/2021, a bullet projectile had hit her on the right leg and fallen in her courtyard and she had taken treatment at PHC, Bicholim. The Respondent No. 1 also stated that the spot of the incident was jointly examined at the residence of the Complainant and it was revealed that the distance between the residence of the Complainant and the firing range is around 3 kms. The

Respondent No. 1 also stated that on 03/02/2021, she was referred for medical examination at Goa Medical College, Bambolim and it was revealed that a bullet projectile was inside the heel of her right leg and surgery was performed and the bullet projectile was removed from her leg. Consequently, Bicholim Police Station registered a case as Other Accident No.01/2021 dated 03/02/2021.

So also, the Respondent No. 1 stated that the Sarpanch of Village Panchayat Ona-Maulinguem-Kudchirem had submitted a letter dated 02/02/2021, to the Bicholim Police Station, requesting to take precautionary measures by erecting a safety wall around the firing range or to shift the same to some other convenient place to avoid any untoward incident in future. So also, the Sarpanch had filed a complaint with the DGP office that the Complainant had been hit by a bullet projectile while she was washing clothes at her residence and the Panchayat had also received complaints from three other persons stating that three bullets projectiles were found in their locality.

The Respondent No. 1 further stated that the Incharge of the Firing Range, conducted a detailed inquiry and the inquiry revealed that **'stray bullets had been flying over the hillock and landing in the village which is about two kilometers from the firing spot'**. Thereupon, firing was stopped till further Orders and at present no firing practice is conducted at the Firing Range, Maulinguem, Bicholim-Goa.

The Respondent No. 2 had filed a reply on similar grounds and stated that there was no negligence on the part of Goa Police Department as all precautionary measures were taken at the Firing Range at the time of firing practice to ensure safety and security of the villagers residing in the surrounding areas.

In her Rejoinders, the Complainant reiterated that the gunshot fired from the Firing Range travels over the hills and falls in the village of Maulinguem on several occasions and denied that the firing had stopped after the incident with the Complainant.

The Commission had considered the submissions of Adv. Shri Rahul Kamat on behalf of the Complainant and of Police Prosecutor, Mrs. A.R. Carvalho, on behalf of the Respondents.

The undisputed fact emerges that the Complainant had sustained a bullet injury on the heel of her right leg on 27/01/2021 and she was eventually hospitalized at the Goa Medical College, Bambolim, where she underwent a surgery and the bullet was removed on 03/02/2021. Though the Police Prosecutor contended that there was no negligence on the part of

the Respondents and the Complainant may have come close to the firing range despite the warnings, **the fact that the bullet was fired from the Firing Range is not denied by the Respondents.** The complaint and the subsequent developments indicate that the Complainant had sustained an injury near her residence at Maulinguem, when she was washing clothes in her courtyard.

Again, though the learned Police Prosecutor submitted that the maximum range of the projectile fired from the gun is 1350 meters and the residence of the Complainant is beyond that distance, **the very reply of the Respondent No. 1 admits that the inquiry conducted by the Police Department reveals that stray bullets had been flying over the hillock and landing in the village which is about two kilometers from the firing spot, as found in para 7 of the reply of the Respondent No.1 dated 27/07/2022.**

The complaint had been filed before the Bicholim Police Station by the Complainant on 02/02/2021 regarding the bullet injury sustained by her on 27/01/2021 and the reply of the Respondent No.1 again indicates that the Bicholim Police Station had registered a case as Other Accident No.01/2021 dated 03/02/2021.

There is also a letter dated 02/02/2021, which is written by the Sarpanch of Village Panchayat Ona, Maulinguem, Kudchirem, to the Police Inspector of the Bicholim Police Station regarding this incident and suggesting to construct a safety wall around the Firing Range or to shift the same to some other convenient place to avoid any untoward incident in future.

The discharge card of the Complainant of the Goa Medical College, Bambolim, indicates that she was admitted on 03/02/2021 and discharged on 06/02/2021 and was found to have a bullet injury and she was operated on and the bullet was removed.

Under Section 2(d) of the Protection of Human Rights Act, 1993, “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.

The Commission held that the Supreme Court has always leaned in favour of a welfare state. Hence, wrong committed by a government servant can be attributable to the State and can be compensated.

In the facts of the present case, and guided by the case laws cited, the Commission agreed with the submissions of the learned Advocate for the Complainant that the Complainant has made out violation of her human

rights due to the actions of the Respondents in conducting their firing practices, resulting in a bullet travelling beyond the Firing Range and injuring the Complainant. The acts of the Respondents resulted in injury to the Complainant and loss of work to her for over three months as well as pain and suffering.

Considering that she was working as a domestic helper and that the wages in Goa for such work were around Rs. 12,000 per month, for **“Loss of wages”**, for three months, she is entitled for Rs.36,000/- and for **“Pain and Suffering”** due to the injury, Rs.14,000/- is a reasonable amount. Thereby, Rs.50,000/- was considered as the quantum of Loss to her, resulting from the acts of the Respondents.

The Commission held that the Complainant is entitled for compensation of Rs.50,000/- (Rupees fifty thousand only) from the Respondent No.1, as she had sustained the bullet injury from the bullet which had travelled from the Firing Range operated by the Respondent No.1 at the Firing Station at Ona, Maulinguem.

Accordingly, the Commission recommended that the Respondent No. 1 pays compensation of Rs.50,000/- (Rupees fifty thousand only) to the Complainant, within 30 days, alongwith Simple Interest thereon at 6% p.a. from the date of the complaint i.e. 07/06/2022 till final payment.

The Commission noted as stated in the replies of the Respondents that the Firing Range at Maulingem has been closed down. This was also submitted by the Police Prosecutor at the time of arguments. Accordingly in this respect, no relief was necessary from the Commission.

Copy of the Inquiry Report was sent to the Respondent No 1, 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. Thereupon, on the Action Taken Report being called for from the Respondent No.1, the Respondent No.1 informed the Commission by letter dated 15/03/2024, that the Respondent No.1 has applied for approval of the Government to challenge the Inquiry Report before the High Court of Bombay at Goa.

8) Proceeding No.59/2023

This case had been disposed of by Inquiry Report dated 06/03/2024.

The complaint dated 14/06/2023 from the women prisoners of the Central Jail Colvale had been forwarded to this Commission by the letter dated 06/07/2023, of the Court of the Principal District and Sessions Judge, North Goa.

On perusing the complaint, the Commission by Order 06/11/2023 called for the report from the Respondent, i.e., the Superintendent, Central Jail, Colvale, Bardez-Goa.

The Respondent filed their reply.

The Commission heard Shri Vithal Gawas, Jailor, on behalf of the Respondent.

The Commission has gone through the complaint which is in respect of the grievances of the women inmates of Central Jail, Colvale, as male officials, though prohibited to visit the women's block, they come to the women's block, unaccompanied by the Jail Matron and the women are embarrassed.

From the reply of the Respondent, they state that the male officers are always accompanied by lady officers.

Under **Rule 1445 of Goa Prisons Rules, 2021**, no male shall be permitted to enter the female ward of any prison at any time, unless he has a legitimate duty to attend therein. No adult male shall enter it at all by night except in an emergency and even then along with the female warden/female officer and he shall thereafter record a clear report of his visit with the reasons for such visit, and the hour thereof, in his report book.

Accordingly, the Commission recommended that the Jail Authorities of the Central Jail Colvale, strictly comply with the said provision, ensuring that when male officers visit the female wards, they always be accompanied by female wardens/female officers and that they shall make a record of the report of the visit with reasons for such visit in the report book. So also, the Commission recommended that a copy of the Inquiry Report be put up by the Respondent on the Notice Board outside the Women's Block.

Copy of the Inquiry Report was sent to the Respondent, calling for his comments, including the action taken or proposed to be taken. The Action Taken Report was received that the recommendation has been complied with. 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.57/2024

This case had been disposed of by Inquiry Report dated 11/03/2024.

This proceeding commenced on 28/02/2024, on the Commission taking suo motu cognizance of the newspaper reports of 'Herald' and 'The Navhind Times', about the shortage of water in the taps in Majorda, Calata and at Chapora, Assagao and Anjuna.

By Order dated 28/02/2024, the Commission had issued notice to the Respondent, i.e. The Principal Chief Engineer, Public Works Department, Altinho, Panaji-Goa, to submit their report.

The Respondent submitted their report on 11/03/2024.

At this stage, Ms. Sharlet Fernandes, Panch, of Ward No. IX, of Utorda, Majorda, remained present and also submitted a copy of the letter dated 26/12/2023, to the Assistant Engineer, Public Works Department, Margao, regarding the problem faced by the villagers due to the water supply.

The Newspapers had reported that several families have to buy water to drink in Majorda and Calata and so also, at Chapora, Assagao and Anjuna, there has been a month long water scarcity.

The Commission had considered the report submitted by the Respondent. In respect of the water supplied to Majorda, Calata and Utorda, they stated that the affected area is at the tail end of the system and many of the houses have metallic (GI) connections which are very old and corroded and this is the main reason for low supply. They stated that the Department offered to lay common pipelines for the benefit of four houses and to facilitate replacement of service connection pipelines but due to some local dispute, the matter was pending.

In respect of the water supply at Chapora, Assagao and Anjuna, the Respondent stated that they are in the process of constructing the water treatment plant at Assagao and augmentation of the Assonora Water Treatment Plant by 30 MLD, which are to be completed by December 2024.

The Commission also heard Ms. Sharlet Fernandes, who submitted that there is a pipeline of higher diameter running parallel through the Francisco Costa Ward and Loyola Ward in Utorda, which are the hard hit areas and water connection can be given to the locals from the higher diameter pipelines.

As water is a basic necessity and a human right of the citizens, the Commission considered the need for making recommendations for resolving the shortage of water faced by the villagers in these areas.

Accordingly, the Commission recommended that in the affected areas of Utorda, the Respondent ensure that the villagers in the Francisco Costa Ward and Loyola Ward, being part of Ward No. IX, are assisted with connections from the pipeline of higher diameter running parallel through these wards.

So also, the Commission recommended that the Respondent facilitate the villagers in the said areas for replacement of service connection through

UPVC pipelines, in place of the existing metallic (GI) pipelines, within 60 days.

The Commission further recommended that in respect of the areas of Assagao, Chapora and Anjuna, the work on the construction of 5.6 MLD Water Treatment Plant at Sonarkhed, Assagao and augmentation of Assonora Water Treatment Plant by 30 MLD be completed by the end of December 2024.

Copy of the Inquiry Report was sent to the Respondent, calling for their comments, including the action taken or proposed to be taken, on or before 13/05/2024, in respect of Utorda area and on or before 31/12/2024, in respect of Chapora, Assagao and Anjuna, in terms of Section 18(e) of the Protection of Human Rights Act, 1993 and the same is awaited.

10) Proceeding No.63/2023

This case had been disposed of by Inquiry Report dated 11/03/2024.

The complaint dated 07/08/2023, was received from the Complainant, Mrs. Surat Umesh Gaunekar.

On perusing the complaint, the Commission by Order dated 21/11/2023, called for the report from the Respondent, i.e. the Director of Provedoria, Institute of Public Assistance (Provedoria), Mala, Panaji-Goa.

The Respondent filed their reply on 24/01/2024.

The Commission heard the Complainant and Ms. Sushila Naik, Assistant Director, on behalf of the Respondent.

The Commission had gone through the complaint, the reply of the Respondent and the documents of the Parties.

The Complainant has stated that she had retired as an Accounts Clerk from the Institute of Public Assistance (Provedoria) and though she had not passed the Directorate of Accounts examination for Accountants, the Respondent be directed to clear the annual increment for the period from 01/07/2017 to 01/07/2021.

The Respondent filed their reply. The Respondent stated that they had framed the Recruitment Rules for filling of the post of Accountant.

They also stated that the Complainant was promoted as an Accountant on 12/12/2016, but she failed to pass the examination and she retired on 31/08/2021.

They stated that the increment was not released as per the rules on promotion but they are ready to consider the release of increment in the previous grade prior to her promotion, i.e. in the grade of Accounts Clerk.

At the stage of arguments, the Complainant agreed for release of her increment and other benefits in the previous grade of Accounts Clerk prior to her promotion as an Accountant.

Accordingly, the Commission recommended that the Respondent release the increments due and other benefits to the Complainant in the grade of Accounts Clerk, within 60 days.

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

11) Proceeding No.192/2020

This proceeding was disposed of by Inquiry Report dated 12/03/2024.

The complaint had been filed by the Complainant, Mrs. Asha Vijesh Naik, on 02/09/2020, apprehending disconnection of her electricity connection to the first floor of the house where she is residing with her family.

The Commission by Order dated 15/10/2020, had called for the replies of the two Respondents, i.e. (1) The Secretary, Village Panchayat Wadi-Talaulim, Ponda-Goa and (2) The Sub-Divisional Engineer, SD-I, Division-X, Electricity Department, Curti, Ponda-Goa.

Respondent No. 1 filed their reply on 19/11/2020 and the Respondent No. 2 filed their reply on 12/11/2020.

At the stage of hearing, the Commission heard Ms. Khusbu Kamat Helekar, Secretary, on behalf of the Respondent No. 1 and Mr. Ajay Paranjape, Junior Engineer, on behalf of the Respondent No.2. None remained present for the Complainant.

The Commission had gone through the complaint and the reply of the Respondents.

In the facts of the present case, the Commission found that on 25/11/2019, the brother of the Complainant had applied to the Village Panchayat for bifurcating the House No. 649 situated at Wadi, Ponda and allotting a house number in the name of his sister, that is the present Complainant. This was approved by the Panchayat body, who had issued House No.649/F and NOC for electricity connection was given to the present Complainant.

Subsequently, on objection of the wife of the brother, the Panchayat resolved to cancel the house number and NOC given to the Complainant.

The Commission agrees with the stand of the Respondent No.2 that **‘Electricity supply is a legal right and denial of power supply is a violation of human rights and so also, electricity supply forms a part of Right to Life under Article 21 of the Constitution of India.’**

The Respondent No.2 also stated that the electricity connection of the structure cannot be disconnected at the behest of someone.

The Commission found merit in the reply of the Respondent No.2 that the electricity connection given to the house of the Complainant on the first floor of the structure should not be disconnected.

The Commission also noted that the brother of the Complainant, Mr. Yejuvendra Ganesh Naik in his Affidavit dated 24/08/2020, had stated that his sister had equal right in the said plot and full right of the first floor constructed by her.

Accordingly, the Commission recommended that the Respondents No.1 and 2 desist from disconnecting the electricity connection given to the first floor occupied by the Complainant, as long as she continues payment of the electricity bills.

Copy of the Inquiry Report was sent to the Respondents No. 1 and 2, calling for their comments, including the action taken in terms of Section 18(e) of the Protection of Human Rights Act, 1993 and the same is awaited.

14. During this year, the Goa Human Rights Commission had also collaborated with the Goa University Manohar Parrikar School of Law Governance and Public Policy, in hosting the PARRIKAR NATIONAL MOOT COURT & POLICY HACKATHON 2024, on 11th and 12th January 2024 at Goa University, Taleigao Plateau, Goa.

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

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

Dated:11/06/2024

Place : Panaji – Goa.