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***For 6th sem. (Major), paper-6.6.***

**Topic: Composition, powers and functions of the National Human Rights Commission (NHRC):**

The provisions of the Protection of Human Rights Act, 1993, provided for the establishment of a commission at the Centre known as the National Human Rights Commission to exercise the powers conferred upon and to perform the functions assigned to it. The composition, powers and functions can be elaborated as follows:

**Composition:**

(a) According to the Protection of Human Rights Act, 1993, the National Human Rights Commission shall have a Chairman and four other members appointed by the President of India on the recommendation of a body consisting of the Prime Minister, Union Home Minister, Deputy Chairman of the Rajya Sabha, Speaker of the Lok Sabha and the leaders of the opposition in both the Houses of Parliament.

It consist of:

1. A Chairman who has been a chief Justice of the Supreme Court;
2. One member who is or has been, a Judge of the Supreme Court;
3. One member who is or has been the Chief justice of a High Court;
4. Two members from amongst persons having knowledge and known for their work in the area of human rights;

(b) The Chairpersons of the National Commission for Minorities, National Commission for Scheduled Castes, National Commission for Scheduled Tribes and National Commission for Women shall be its *ex-officio* members;

(c) There shall be a Secretary-General, who shall perform his duties as Chief executive officer of the Commission and shall exercise such powers and functions of the commission as it may delegate to him.

(d) The Headquarters of the NHRC shall be at Delhi and the Commission may, with the prior approval of the Central Government, establish offices at other places in India.

**Tenure:**

1. The Chairman shall hold office for a period of five years from the date on which he enters upon his office or until he attains the age of 70 years, whichever is earlier.
2. The member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for reappointment for another five years. Provided that no member shall hold office after he has attained the age of 70 years.
3. On ceasing to hold office, a chairman or a member shall be ineligible for further employment under the Govt. of India or under any other state Governments.

**Removal:** The chairman and other members of the NHRC may be removed by the President of India in case he is:

* 1. adjudged as insolvent, or
  2. engages during his term of office in any profitable or paid employment outside the duties of his office, or
  3. not in a position to continue in office by reason of infirmity of body or mind, or
  4. of unsound mind and stands so declared by a competent court, or
  5. convicted and sentenced to imprisonment for an offence which, in the opinion of the President involves moral turpitude.

**Functions of the NHRC:**

The Human Rights Protection Act, 1993 under section 12, endowed with numerous powers and functions. It performs the following functions:

(a) to inquire suo moto or on a petition presented to it by a victim or any person on his behalf into complaints 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 proceedings involving any allegation of violation of human rights pending before a court with the approval of such court;

(c) to visit, under intimation of the state Governments, any jail or any other institution under the control of the State Government, where persons are detained or lodged for purpose of treatment, reformation or protection to study the living conditions of the inmates and to make recommendations thereon;

(d) To review the safeguards provided under the constitution or any law for the protection of the human rights and to recommend appropriate remedial measures;

(e) To review the factors, including the acts of terrorism that inhibit the enjoyment of human rights and to recommend appropriate remedial measures;

(f) To study treaties and other international instruments on human rights and to make recommendations for their effective implementation;

(g) To undertake and promote research in the field of human rights;

(h) To spread human rights literacy among various sections of society and to promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;

(i) To encourage the efforts of the non-governmental organizations and institutions working in the field of human rights;

(j) Such other functions as it may consider necessary for the promotion of human rights.

**Powers relating to inquiries:**

(1) While making an inquiry into complaints submitted to it, the commission shall have all the powers of a civil court in respect of the following matters:

* 1. summoning and enforcing the attendance of witnesses and examining them on oath;
  2. discovery and production of any documents;
  3. receiving evidence on affidavits;
  4. requisitioning any public record or copy thereof from any court or office;
  5. issuing commissions for the examination of witness or documents;
  6. any other matters which may be prescribed.

(2) The Commission may recommend any of the following steps after completion of an inquiry into a matter submitted to it. They are:

1. May recommend to the concerned Central or states Government or some other authority for the initiation of proceedings for prosecution or such other actions as it may deem fit against some person or persons.
2. May recommend the Supreme Court or the High Court concerned for such directions orders or writs.
3. May recommend for the grant of such interim relief to the victims or his family by the concerned Government or authority.
4. May send a copy of its published report to the concerned Government or authority asking for a reply or informing it about the action taken or decided to be taken in the matter.
5. May provide a copy of its inquiry reports to the petitioner or his representatives as per the provision of clause (5).
6. May publish its repot along with the reply of the concerned Government or authority relating to the action taken or proposed to be taken by it.

**Annual Report:**

The NHRC submits its annual report to the President of India who causes it to be laid before each House of Parliament. Besides, it shall have the power to submit a report or special report to the Governor of a state concerned who shall cause it to be laid before the state Legislature for the discussion on the floor along with the action taken or decided to be taken on its recommendations and reasons for non-acceptance of its recommendations, if any.

**Procedure for dealing with complaints**:

Any person or groups of persons or any organization can lodge a complaint about human rights violation to NHRC. The received complaints are registered with a number and placed before the members of the commission, If it is required, the commission may ask for further information or affidavit in support of the complaints lodged. At this stage the commission may dismiss the complaints, if it does not find sufficient substance in the complaints.

Once the complaint is admitted, the commission directs further inquiry and call for the reports from the respective state Governments. Subsequently, a detailed note is prepared and placed before the commission. At this stage a complaint is closed in case no further inquiry is required or the concerned Government has taken the required action.

After taking up a case by the commission, it can conduct the investigation by its investigation division. After inquiry, if it is found that there was a violation of human rights, then the commission may recommend to initiate proceedings for prosecution against the guilty person or institutions. It can also recommend the concerned Government for grant of relief to the victim or the members of his family. Besides, it may approach the concerned High Courts or the Supreme Court for the implementation of its orders.

Further, if the cases of human rights violation are involved with armed forces, the commission calls for a report from the central government. If the commission is satisfied with the repot of the government, it will not proceed further with the complaint. But if the commission is not satisfied, it makes its recommendations to the government. The central government is required to inform the commission about the action taken within a period of three months.

It is important to mention here that the NHRC has its own investigation team, headed by a Director General of Police, for investigations into complaints for human rights violation. It can also utilize the services of any officers or investigation agency of the Central or ay state government. It has been found in some cases that the commission was involved with NGOs during enquires into the complaints of human rights violation.

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