***Class-notes prepared and uploaded by-Dr Adidur Rahman***

***Dept. of Pol. Science, HAAC***

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

**TOPIC:**

**COMPOSITION, POWERS AND FUNCTIONS OF THE ASSAM HUMAN RIGHTS COMMISSION (AHRC):**

In exercise of the powers conferred under Section 21(1) of the Protection of Human Rights Act, 1993 (No. 10 of 1994), the Governor of Assam, vide Notification No. PLA.362/94/51 dated March 19, 1996, constituted a body to be known as the ASHRC to exercise the powers conferred upon it and to perform the functions assigned to a State Commission under Chapter V of the said Act. Further, the Governor of Assam constituted the first ASHRC with Hon’ble Mr. Justice Surendra Nath Bhargava, as the first Chairperson.

**Composition :** Sec. 21 of the Protection of Human Rights Act, 1993, as amended by the Protection of Human Rights (Amendment)Act, 2006 under Chapter V, lays down that the State Government may constitute a Human Rights Commission which shall consist of –

1. A Chairperson who has been a Chief Justice of a High Court;
2. 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;
3. One Member to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

The Commission has a Secretary who is the Chief Executive Officer of the State Commission.

**Appointment:** The Chairperson and other Members of a State Commission are appointed by the Governor by warrant under his hand and seal: Provided that every appointment under this sub-section shall be made after obtaining the recommendation of a Committee consisting of -

1. The Chief Minister — Chairperson.
2. Speaker of the Legislative Assembly — Member
3. Minister in-charge of the Department of Home, in that State — Member
4. Leader of the Opposition in the Legislative Assembly — Member

**Removal:**

1. Subject to the provisions of sub-section (2), the Chairperson or any other member of the State Commission shall only be removed from his office by order of the President on the ground of proved misbehavior or incapacity after the Supreme Court, on a reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or such other Member, as the case may be, ought on any such ground to be removed.
2. Notwithstanding anything in sub-section (1), the President may by order remove from office the Chairperson or any other Member if the Chairperson or such other Member, as the case may be –
3. is adjudged an insolvent; or
4. engages during his term of office in any paid employment outside the duties of his office; or
5. is unfit to continue in office by reason of infirmity of mind or body; or
6. is of unsound mind and stands so declared by a competent court; or
7. is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude.

**Term of office:**

1. A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy(70) years, whichever is earlier;
2. A person appointed as a 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 re-appointment for another term of five years; provided that no Member shall hold office after he has attained the age of seventy years.
3. On ceasing to hold office, a Chairperson or a Member shall be ineligible for further employment under the Government of a state or under the Government of India.

**Headquarters of the Commission:** The headquarters of the Commission is located at Guwahati.

**Venue of Meetings:** The Commission shall ordinarily hold its meetings and sittings in its office located at Guwahati. However, it may, in its discretion, hold its meetings and sittings at any other place in Assam if it considers it necessary and expedient.

**Functions:** The Commission performs all or any of the following functions:

1. Inquire suo-motu or on a petition presented to it by a victim or any person on his behalf, into complaint of –
   1. violation of human rights or abetment thereof, or,
   2. negligence in the prevention of such violation, by a public servant.
2. Intervene in any proceeding involving any allegation of violation of human rights pending before the court, with the approval of such court;
3. Visit, under intimation to the State Government, any jail or any other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, to study the living conditions of the inmates and make recommendations thereon;
4. Review the safeguard 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 ;
5. Review the factors including the act of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
6. Undertake and promote research in the field of human rights;
7. Spread human rights literacy among various sections of the society and promote awareness of safeguards available for the protection, media, seminar and other available means;
8. Encourage the efforts of non-governmental organizations and institutions working in the field of human rights; and
9. Such other functions as it may consider necessary for the promotion of human rights.

**Powers relating to Inquires:**

1. The State Commission shall, while inquiring into complaints under this Act, have all the 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 examination of witnesses or documents; and

(f) any other matter which may be prescribed.

1. The State Commission shall have the power to require any person subject to any privilege which may be claimed under any law for the time being in force, to furnish information on points or matters useful for, or relevant to the subject matter of inquiry.
2. The State Commission also has certain other powers to facilitate the process of inquiry undertaken by it.
3. The State Commission shall be deemed to be a Civil Court and every proceeding before it shall be deemed to be a judicial proceeding within the meaning of Sec. 193 and Sec 228 and for the purpose of Sec. 196 of the Indian Penal Code.

**Jurisdiction beyond the Commission:**

1. The Commission cannot inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force.
2. The Commission or the State Commission shall not enquire into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed.

**Annual and Special Reports:**

The Commission shall furnish its Annual Report for the period from 1 January to 31 December to the State Government was provided in Section 28(1) of the Act. The original report shall be signed by the Chairperson and members of the Commission and appropriately preserved and duly authenticated copy shall be sent to the State Government by end of February of every year.

The Commission may furnish such Special Reports on specific matters as may be considered necessary in terms of Section 28(1) of the Act.

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