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The Role of National Human Rights Commission of India in Cases of Atrocities on Women: A study

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ABSTRACT

In accordance with the spirit of Article 14 and 15 of the Constitution of India, many legislations are in place to protect basic human rights of women and promote their status in society. However, proper implementation of these legislations is a problem area. Though the Legislature, the executive and the Judiciary are the three basic institutions, but apart from them the National Human Rights Commission of India is also of equal importance. While the Criminal Justice System in India has proved unable to respond to widespread gender based violence and atrocities against women, the NHRC is working hard for greater accountability from the insensitive police and jail authorities of traditional and patriarchal mind-sets. Gang rape and merciless killing of a minor by RPF personnel in Kanpur Police station and pregnancy of a woman prisoner while in judicial custody at Tihar Jail are glaring examples of it in which the commission directed for immediate steps to ensure complete security of the female prisoners. Apart from above, trafficking of women and girls still continues and sometimes victims are poverty stricken and forced into the prostitution by their own parents. Not only that but the overall liberty of women appears to be at stake. Inspite of its structural deficiencies and inadequacies, the Commission is working hard for providing compensation to human rights victims in such cases and for promoting human rights awareness. The only inherent weakness appears to be is that it is not having biting tooth and its jurisdiction is limited to giving directions and recommendations only.

KEYWORDS

Role of NHRC, women rights, the Protection of Human Rights Act, atrocities on women, atrocities by police and jail authorities, Article 14 and 15 of the Constitution of India.

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INTRODUCTION

There are growing concerns in the country and abroad about issues relating to human rights. Having regard to the changing social realities and the emerging trends in the nature of crimes and violence, it is jurisprudentially accepted that human rights is a broad concept and it cannot be straitjacketed within narrow confines. Human rights are the basic, inherent, immutable and inalienable rights to which a person is entitled simply by virtue of his being born a human.

As rightly observed by Alexander Hamilton²

“The sacred rights of mankind are not to be rummaged for, among old parchments, or musty records. They are written, as with a sun beam in the whole volume of human nature, by the hand of divinity itself; and can never be erased or obscured by mortal power.”

That is why, in seeking to define human rights, the legislature of India has used a wide expression which says-

“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.”³

In accordance with the spirit of the Article 14 and 15 of the Constitution of India, which provide for equality before law and non-discrimination respectively, India has ratified the CEDAW. Under international law, India has the obligation to act with due diligence to prevent, investigate and punish the acts of violence by both the state and non state actors and provide compensation to victims.⁴ A large number of legislations are also in place seeking to protect and safeguard rights of women and promote their status in the society. However, proper implementation of these legislations as well as policies and programmes have been a problem area. Hence, a large percentage of women in India still suffer from various disadvantages and denial of their legitimate rights.

MATERIAL AND METHODS

Though the Legislature, the executive and the Judiciary are the three basic institutions for protection of Human Rights, but apart from them the National Human Rights Commission⁵ is also constituted for better protection as well as promotion of Human Rights in India.⁶ It is constituted to perform various functions like- inquiring into the complaints of violation of human rights, intervening in

any proceeding involving any allegation of violation of human rights pending before a Court, visiting Jail or other Government Institutions for study of living conditions of persons detained therein, reviewing the safeguards provided under the Constitution or any other Law for the protection of Human rights and recommend measures for their effective implementation, review factor relating to terrorism etc., studying treaties and other international instruments on human rights and undertake research and spread human rights literacy among various sections of Indian Society.⁷

While the Criminal Justice System in India has proved to be unable to respond to the needs of widespread gender based violence and atrocities against women, the NHRC is working hard to point out for greater accountability from the police and jail authorities, who are seen to be insensitive to such cases due to traditional and patriarchal mind-sets. Gang rape and merciless killing of a minor by RPF personnel in Kanpur Police station, Uttar Pradesh is a glaring example in which the complainant prayed for intervention of the Commission. As per the complaint, it was a well thought out plan as the father of the minor girl was jailed on frivolous charges and the mother had left the child in the home so as to visit her husband in the jail. The commission took cognizance of the matter⁸ and issued directions to the Railway Board, Govt. of India and in pursuant of the directions of the Commission it was reported that a Crime case u/s 147/148/376/302 IPC had been registered against RPF constables Vinay Kumar singh and six others and during investigation, on the basis of evidence, RPF constable Vinay kumar singh was arrested and sent to jail. On completion of investigation charge sheet against three accused persons was filed in the court and they were placed under suspension. On examining all the facts of the case, the Commission observed that it prima facie showed that RPF constable/constables has/have committed rape of an 11 year old female children and later murdered her which was a clear violation of human rights and next of kin of the deceased child was entitled for monetary relief and accordingly the Commission recommended payment of Rs. 3,00,000/- to the next of kin of the deceased child by the Railway Board, Govt. of India.

Most often, in cases of sexual assault, many a times, the victims are discouraged by the community and even by the police for resorting to legal remedy. Such an example came in light when the NHRC took suo motu cognizance on a news aired by the news channel Aaj Tak on 28 may 2009 wherein it was alleged that a woman prisoner who was in judicial custody in Tihar Jail had become pregnant.⁹ The commission called for a report the Inspector General of Prisons, Delhi in which it was informed that on the request of the female prisoner, the pregnancy was medically terminated at D.D.U.

Hospital of Delhi on 26 may 2009. Further, fearing the stigma and other repercussions, the victim refused to divulge the details of the incident to the jail authorities. The commission after considering the report, observed that although the victim did not make any complaint against any person or official of the jail and also refused to divulge the name of the person but it was clear that she became pregnant while in judicial custody and it clearly showed a lapse on the part of the jail administration. The NHRC investigation team conducted a spot inquiry of the victim in camera but failed to collect any evidence to establish the identity of the person guilty of sexual exploitation of the victim but the team reported serious lapse in the security arrangements in the jail. The commission directed the Tihar Jail administration to immediately take steps to ensure complete security of the female prisoners in particular and to submit detailed report of the steps taken. The jail administration after taking appropriate steps submitted report to the NHRC and the Commission is further reviewing it.

Apart from above, trafficking of women and girls still continues, both for sexual exploitations as well as for illegal labor, inspite of the Government initiatives like Ujjawala scheme. Sometimes the victims are poverty stricken and forced into the prostitution by their own parents. In one of such case the NHRC took suo motu cognizance of a news report about young girls being sold and forced into flesh trade by their own parents.¹⁰ In the report submitted to the Commission by the director General of police, Hyderabad it was revealed that three criminal cases were registered in connection with the incident and 16 accused were arrested and 11 girls of which 5 were minor, were rescued. Since the problem of prostitution has its moorings in poverty in present case, the Commission made efforts to address the problem and the assistance of NGOs and other departments was taken in mitigating the menace and the minor girls were sent to the rehabilitation centers. The commission further called upon the Superintendent of Police, East Godavari, Kakinada to submit up-to-date report about action taken for the rehabilitation of the victims.

Not only the sexual exploitation and trafficking of women but the overall liberty of women also appears to be at stake. In Hyderabad, three HIV positive siblings were refused admission by schools since the management of the schools were against accepting HIV positive children. These schools disregarded the order of the Andhra Pradesh government, that educational institutions should not discriminate against anyone and must admit HIV positive children. The youngest of the three siblings has already succumbed to HIV and the surviving two siblings are presently being tutored by an NGO. A case with respect to the right to education of these children is pending in the Andhra Pradesh High

Court.¹¹ Unfortunately, our health system has failed to deal with communicable diseases and their effects on women in a gender sensitive way , which results in many women being denied treatment and becoming increasingly vulnerable to ill health. The structural inequalities must be addressed to curb the growth of emerging and re-emerging diseases. Interventions in communicable diseases must be planned with cognisance of the way in which gender influences the degree to which men and women, as individuals and as population groups, have access to and control of the resources needed to protect their own families and that of community members.¹²

In another case of this line relating to arrest of an innocent woman by the police in place of an accused woman whose name was similar the NHRC took cognizance.¹³ The commission directed the Secretary, Home, Chandigarh Administration to initiate Departmental Inquiry against the guilty police personnel. The commission recommended for their termination of service after adverse remarks received in the Departmental Inquiry against them.

RESULTS AND DISCUSSION

It is important to note here that the NHRC first inquires into the complaint received and only after due consideration it proceeds further in the case. After inquiry, if the complaint is found frivolous or under the circumstance, if the intervention of the Commission is not warranted, it closes the case. On good example of this line is the case of death of a girl child Simran due to alleged beating by her school teacher in Punjab.¹⁴ Upon enquiry, the allegations leveled against the School and its staff were found false and baseless. It was also found that the girl was ill for some days prior to her death and she was being treated at Bimla Hospital. As per the medical examination report, microbiology report and histopathology report of the viscera, the cause of death stated was “septicemia as result of bilateral bronchopneumonia” which is sufficient to cause death in ordinary course. Upon consideration of the report, the commission observed that since the deceased child died due to illness and under the circumstances intervention of the Commission was not called for, it closed the case.

The Supreme Court of India itself has observed in the matter of Paramjit Kaur v/s State of Punjab and Ors.¹⁵ that-

“The Commission headed by a former chief justice of India is a unique expert body in itself. The Fundamental Rights, contained in Part-III of the Constitution of India, represent the basic human rights possessed by every human being in this world inhabited by people of different

continents, countries, castes, colours, and religions. The country, the colour and the religion may have divided them into different groups but as human beings, they are all one and possess the same rights.”

In the matter of Remdeo Chauhan @ Rajnath Chouhan v/s Bani Kant Das¹⁶, the Supreme Court of India has revisited the role of the NHRC in the area of human rights. In this matter, the Court has to examine the legality of recommendation of the NHRC to the Governor to commute the death sentence of a convict to life imprisonment despite the Supreme Court has turned down his review petition. The Supreme Court held that the ambit of human rights being wide the NHRC could validly make recommendations to such end.

It is clear from above analysis that the National Human Rights Commission of India is a unique and vibrant institution working for protection as well as promotion of human rights of various sections of Indian Society. The only inherent weakness appears to be is that it is not having biting tooth and its jurisdiction is limited to giving directions, suggestions and recommendations only. But inspite of its structural deficiencies and inadequacies, the Commission is working very well in the direction of providing compensation to the human rights victims. As rightly observed by Justice V. R. Krishna Iyer¹⁷-

“Human rights are written on a large canvas, as large as the sky. The law makers, lawyers, and particularly, the judges, must make the printed text vibrant with human values. Remember, we are all active navigators, not idle passengers, on spaceship earth as it ascends to celestial levels of the glorious human future.”

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