

15 Years Slumber for Human Rights Commission!

A PIL from PeRGo could wake up the State from its 15 years slumber for constitution of Human Rights Commission

-by PeRGo team

Brief Background

The HP State Human Rights Commission functioned till 2005 after its constitution in the year 1995. Thereafter three governments took oath but protection of human rights was not in their agenda. There were consistent violations of human rights in the State. Many of citizens could not reach courts for its enforcement. The judgment passed by Supreme Court in 2016 also went in vain. The PeRGo felt the importance of State Human Rights Commission and came up with a PIL in High Court of HP seeking directions to constitute the Commission.

Human Rights – An Important Issue

Human rights and fundamental freedoms are the corner stone of every civilization and form the very foundation of humanity's quest for better existence. Simply speaking, Human Rights are the rights which any human being on this earth must enjoy because of the mere fact that he is a human being. "Human rights are not a privilege granted by the few, they are a liberty entitled to all, and human rights, by definition, include the rights of all humans, those in the dawn of life, the dusk of life, or the shadows of life". (Kay Granger, U.S. Representative)

Human rights promote peace, social progress, better standards of life and greater freedom to all people. The UNO, since its establishment, has diligently protected human rights through its legal instruments. In 1948, the United Nations released the Universal Declaration of Human Rights, which is the Magna Carta of universal human rights. It recognizes the inherent right of dignity, liberty and equality of every individual.

Interest and awareness of human rights has grown even more in recent decades.

Why do Human Rights Matter?

Here are a few specific reasons:

1. Human rights ensure people have their basic needs met.
2. Human rights protect vulnerable groups from abuse.
3. Human rights allow people to stand up to societal corruption.
4. Human rights encourage freedom of speech and expression.
5. Human rights give people the freedom to practice their religion (or not practice any).

6. Human rights give people access to education.
7. Human rights encourage equal work opportunities.
8. Human rights allow people to love who they choose.
9. Human rights help protect the environment.
10. Human rights provide a universal standard that holds governments accountable.

Human Rights In India

Our nation is one of the largest democracies in the world and it provides to its citizens certain fundamental rights which are considered the basic human rights of all citizens, irrespective of their gender, caste, religion or creed.

The Constitution of India grants to all Indians, the following rights:

- Right to Equality
- Right to Freedom
- Right against Exploitation
- Right to Freedom of Religion
- Cultural and Educational Rights and
- Right to Constitutional Remedies.
- Besides the Constitutional rights, there are other rights which fall within umbrella of human rights as defined under Protection of Human Rights Act, 1993.

Enforcement Machinery for Human Rights:

There exist various safeguards for the protection of these rights. The country has an independent and efficient Judiciary that looks after the same. There are also specialized bodies to look into matters related to human rights. The Protection of Human Rights Act, 1993 provides for the constitution of National Human Rights Commission in India, State Human Rights Commissions in States and Human Rights Courts for better protection of human rights. However, despite all this, the issue of human rights in India gets complicated by the country's large size and population, widespread poverty, lack of proper education, as well as its diverse culture. The problem of Human Rights violations also surfaces because we live in an exploitative society where a person because of his position, power, rank or any other like factor, has a tendency to exploit others. According to the 2016 report of 'Human Rights Watch', India has "Serious human rights concerns. Civil society groups face harassment; Government critics face intimidation and lawsuits. Free speech has come under attack both from the State and by interest groups. Minorities accuse authorities of not doing enough to protect their rights. The

government is yet to repeal laws that grant public officials and security forces immunity from prosecution for abuses.”

Role of Human Rights Commissions

The Protection of Human Rights Act, empowers the National HRC and State HRCs with various powers.

Some of these includes:

1. Inquiring into violations of human rights by the government or negligence of such violation by a public servant.
2. Protecting human rights and recommending measures for their effective implementation.
3. Undertaking and promoting research in the field of human rights.
4. Visiting jails and studying the conditions of inmates.
5. Engaging in human rights education among various sections of society.
6. Promoting awareness of the safeguards available for the protection of these rights through publications, media, seminars, etc.
7. Encouraging the efforts of NGOs and institutions working in the field of human rights.

Dormant SHRC in Himachal

Disappointingly, the State Human Rights Commission in HP had been lying defunct for the last 15 years, three successive State Governments failed to make appointments to the Commission and it remained totally non-functional. There can be no denying the fact that a number of human rights violations occur within the state of HP, from time to time. The absence of a statutory body for checking these violations makes matters worse.

PeRGo Files PIL In Court to Awaken A Sleeping State!

Since 15.7.2005 the Human Rights Commission in HP had remained non-functional. Despite an order being passed by the Supreme Court, on 24.7.2015, directing the States, including State of HP, to make the respective Commissions functional in 6 months' time, no step was taken. Till as late as April 2019, no appointments had been made to the Commission by the State Government of HP. Seeing this lackadaisical attitude of the State, PeRGo, being a socially conscious and ever vigilant rganization, filed a PIL in court regarding this issue. On

23.4.2019 a PIL was filed in the High Court of HP (Namita Maniktala vs State of HP and others) seeking the constitution of State Human Rights Commission and Human Right Courts.

High Court Issues Show Cause Notice

In response to PeRGo's PIL, the High Court, on 29.4.2019, issued a show cause notice to the State as to why the Human Rights Commission/Lokayutka/ Lokpal has not been constituted by the State of Himachal Pradesh.

On 30.10.2019, the Court observed, "the respondent-State has failed to show cause till date. Such an approach in a matter of this nature, that too when the Apex Court in D.K. Basu Vs. State of West Bengal (2015) 8 SCC 744 has held that it is mandatory for every State to constitute "State Human Rights Commission" as well as "Human Rights Court" and also directed all the States, including the State of Himachal Pradesh, to set up "State Human Rights Commission" within a period of six months and also to take steps for setting up of "Human Rights Court", is not appreciated.

State Finally Moves into Action

Faced with the situation where Court demanded the implementation of judgment of Apex Court and persistent orders passed therein, the State had no option than to constitute HP State Human Rights Commission. Justice P.S.Rana has been appointed as Chairman of The State Human Rights Commission. Another member of Commission has also been appointed.

Another Success Story for PeRGo

Thus, based on the petition filed by PeRGo, the dormant wheels of SHRC in HP have finally started to churn after 15 long years. This was a much-needed measure. It will go a long way in safeguarding human rights of individuals in the State! PeRGo has been able to achieve another milestone towards furtherance of its objective.