

ANNEXURE 8

Response to an RTI Petition

Reference No. R.C. No. 16(I)/PIO/2005 (RTI)/2586

AGJ reference



PEOPLE'S WATCH-TAMILNADU

Date of Receipt.. 6/2/10

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R.C. 16(1)/PIO/2005(RTI)/ 2586

National Human Rights Commission

Faridkot House, Copernicus Marg, New Delhi-110 001

Dated 2-2-2010

To, Ms S Rizwana
No 6 Vallabhai Road
Chokki Kulam
Madurai

Sub:- Seeking information under RTI Act-2005

Sir,

With regards to your application received on 01/02/ 2010 on the subject cited above, I am forwarding herewith self-explanatory note dated 23.10/2009 received from the concerned authority

Yours truly,

(Jaimini Kumar Srivastava)
Public Information Officer

Encl: As above (page 11)

File No.10/10/2009-PRP&P
National Human Rights Commission
PRP&P Division

Please find enclosed the reply to application received from Ms.S.Rizwana, Madurai under RTI Act (R.C.2586). The reply has the approval of the Competent Authority.

(Savita Bhaktry)
Senior Research Officer
23.10.2009

PIO

Received in RTI Unit
Dated 23.10.2009
at 5.20pm

Reply of application received from Ms S. Rizvana under RTI, Act 2005

Reference No. R.C. No. 16(I)/PIO/2005 (RTI)/2586

Sl.No.	Information requested	Reply
	<p>What have been the specific responses of the NHRC to the APF to each of the below mentioned ACJ references of the APF by the NHRC in India after receiving the full report of each of the references?</p> <ul style="list-style-type: none"> • Right to environment (2007) • Right to education (2006) • Torture (2005) • Anti-terrorism legislation and the rule of law (2004) • Trafficking of women and children (2002) • Death penalty (2000); • The regulation of child pornography on the internet (2000) • Please do state in minute detail the response of the NHRC in India to each of the above mentioned references. ? 	<p>Reply is annexed.</p>
	<p>What are the action points that have emerged within NHRC in India after the ACJ references with details of time lines if any, each of the action points on the seven references?</p>	
	<p>Have these references of the ACJ been placed in the formal agenda of any 'Full Commission' meeting of the NHRC after the Final Reports of the seven references were made available to the NHRC by the APF?</p>	
	<p>The Government of India has signed the UN Convention against Torture in the year 1997 and has still not ratified the same. The Annual Reports of the NHRC from the year 1997-98 till 2006-2007 continuously indicate the efforts of the NHRC to have addressed the Government of India to ratify the UN CAT. Has the Government of India approached the NHRC in this period after signing the UNCAT on a draft legislation that it proposes to come out with on prevention of Torture? (Yes/No) If yes. What are the recommendations that were made by the NHRC to the Government of India in terms of such a reference? Kindly do provide us a copy of the reference provided to the Government of India?</p>	<p>Yes. The Commission vide letter dated 14 July 2006 communicated to the Ministry of Home Affairs, Government of India its comments on the draft Cabinet note and the draft bill.</p> <p>The Cabinet Note is a secret document. Therefore, the same cannot be shared.</p>
	<p>The Government of India has also come out with draft bill in the year 2008 titled "prevention of Torture Bill" to provide punishment for torture inflicted by public Servants or any person inflicting torture with the consent or acquiescence or any public servant and for matters connected therewith or incidental. Did the NHRC respond to the Government after this Draft Bill was prepared and make it available to the APF reference on Torture?</p>	<p>With regard to the issue under reference, <u>the Commission on 8.7.09 addressed a letter to MHA</u>. Copy of the same is enclosed.</p>

Annexure for Reply to On. No. 1, 2 & 3

<p align="center">What have been the specific responses of NHRC to the APF to each of the ACJ references of the APF by the NHRC in India after receiving the full report of the references?</p>	<p align="center">What are the action points that have emerged within NHRC in India after the ACJ references with details of time lines if any, to each of the action points on the seven references?</p>	<p align="center">Have the references of the ACJ been placed in the formal agenda of any Full Commission meeting of the NHRC after the Final Reports of the seven references were made available to the NHRC by the APF.</p>
<p align="center">1</p>	<p align="center">2</p>	<p align="center">3</p>
<p>Right to Environment (2007)</p>	<p>A copy of the recommendations contained in the final report of the ACJ on Human Rights & Environment adopted at the 12th Annual Meeting of the Asia Pacific Forum of NHRIs at Sydney in 2007 was sent to Shri Fali S Nariman, ACJ Nominee of NHRC India as well as to the Secretary, Ministry of Environment and Forests Government of India.</p> <p>The Ministry of Environment & Forests vide their letter dated 17 February 2009 have forwarded their comments to NHRC.</p>	<p>The comments received from the Ministry of Environment & Forests as well as NHRC comments on the final report of the ACJ on Human Rights and Environment are being placed before the Full Commission.</p>
<p>Right to Education (2006)</p>	<p>It organized a two-day "National Seminar on Right to Education" on 11-12 September 2008 at New Delhi. A copy of the recommendations made by the Commission is enclosed.</p> <p>As regards the ACJ recommendation to amend the Child Marriage Restraint Act 1929, the NHRC and the Ministry of Women & Child Development, the Nodal Ministry for all matters concerning women & children in the Government of India along with other stakeholders have recast the said Act. The new Act is known as "The Prohibition of Child Marriage Act, 2006".</p> <p>In order to eradicate the evil of child marriage, the Commission in the year 2005 also wrote to the then Minister for Human Resources Development and the Chief Minister of all states. UTs to generate public awareness so that people at large are educated about the demerits of child marriage. It urged the then Secretary, DWCD, Gol and all the Chief Secretaries / Administrators of States / UTs including Secretaries of the concerned Depts. In States / UTs to make use of the functionaries of Integrated Child Development Services Scheme in spreading awareness against child marriages.</p>	

<p>What have been the specific responses of NHRC to the APF to each of the ACJ references of the APF by the NHRC in India after receiving the full report of the references?</p>	<p>What are the action points that have emerged within NHRC in India after the ACJ references with details of time lines if any, to each of the action points on the seven references?</p>	<p>Have the references of the ACJ been placed in the formal agenda of any Full Commission meeting of the NHRC after the Final Reports of the seven references were made available to the NHRC by the APF.</p>
<p>1</p>	<p>2</p>	<p>3</p>
<p>Torture (2005)</p>	<p>The Commission has been urging the Government of India to ratify the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment 1984, at the earliest.</p> <p>In this regard, the MHA vide letter dated 15.06.2006 sought comments of NHRC for introduction of a Bill in the Parliament to ratify the Convention. Taking into consideration the final report of the ACJ on torture, the Commission communicated its comments to MHA vide its letter dated 14.7.2006. Thereafter, reminder letter were also addressed to the Government to know their stand concerning ratification of CAT.</p> <p>The Human Rights Manual for District magistrates was published by the NHRC in 2007.</p> <p>The Commission on its part has been redressing individual complaints on torture. It has been conducting training programmes, workshops, debate competitions, seminars, etc., to create awareness on torture amongst the police, prison officials, parliamentary forces and the army.</p> <p>It has reiterated the directions given by the Supreme Court in its two judgements relating to Joginder Kumar vs State of U.P and D.K. Basu vs State of West Bengal cases which lay emphasis on minimum intarrogation standards it has, time and again stressed the need for their scrupulous implementation. Besides it has laid down stringent reporting standards with regard to custodial deaths, rapes and issued guidelines on arrests and fake encounters. In cases of torture, the Commission has recommended monetary relief, disciplinary action and prosecution.</p>	
<p>Anti-terrorism Legislation and the Rule of Law (2004)</p>	<p>The Commission has been advocating a balanced and harmonious approach so that the police and armed forces of the country, backed by all elements of the society have a duty to fight terrorism but must be done in a manner that upholds the Constitution of the Republic, the laws of the land and the Treaty commitments of the State.</p>	

<p>What have been the specific responses of NHRC to the APF to each of the ACJ references of the APF by the NHRC in India after receiving the full report of the references?</p>	<p>What are the action points that have emerged within NHRC in India after the ACJ references with details of time lines if any, to each of the action points on the seven references?</p>	<p>Have the references of the ACJ been placed in the formal agenda of any Full Commission meeting of the NHRC after the Final Reports of the seven references were made available to the NHRC by the APF.</p>
<p>1</p>	<p>2</p>	<p>3</p>
<p>Trafficking of Women and Children (2002)</p>	<p>The recommendations of the ACJ on the issue of trafficking in women and children were referred to the Secretary, Department of Women and Child Development and Ministry of Home Affairs for appropriate action.</p> <p>An action Research on Trafficking in Women and Children in India was undertaken by the Commission in the year 2002-03 and the same was completed in 2004.</p> <p>The Commission in collaboration with the Department of Women and Child Development and UNICEF also prepared a Judicial Handbook on Combating Trafficking o Women and Children for Commercial Sexual Exploitation.</p> <p>An Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women has been collectively prepared by NHRC, MWCD, NCW, MHA and Ministry of Labour and Employment.</p>	<p>Yes. The report of the ACJ was placed before the Commission in its meeting held on 3 September 2003 and the same was also adopted by the NHRC.</p>
<p>Death Penalty (2000)</p>	<p>As per records available, prior to receipt of the final report on death penalty, the Commission had received a background paper on the terms of reference concerning the death penalty issue. The ACJ had recommended, inter alia, that "India is encouraged to take progressive steps towards de facto abolition of death penalty and ultimately its de jure abolition". The background paper was placed before the Commission in its meeting held on 21.11.2000.</p> <p>Subsequently, the Commission also discussed the issue in its meeting held on 13.09.2001. The Commission did not record any stand in the matter.</p>	<p>The report was placed before the Commission in its meeting held on 23.2.2001</p>
<p>Child Pronography on the Internet (2000)</p>	<p>The Commission sought the views of Shri F.S. Nariman on the recommendation of the ACJ. The views given by him were adopted by the Commission and the same was sent to APF for appropriate action.</p> <p>Thereafter in order to know whether any specific legislation on child pornography on the internet had been enacted the Department of Information & Technology was consulted. It was informed by them that publishing of obscene information in electronic form is a criminal offence as per the IT Act 2000.</p>	<p>The ACJ Report was placed before the Commission on 23.02.2001 and on 25.07.2001.</p>

National Human Rights Commission
(PRP&P Division Director's Unit)

RECOMMENDATIONS OF NHRC ON RIGHT TO EDUCATION

The 86th Constitutional Amendment Act, 2002 mandates that 'the state shall provide free and compulsory education to all children of the age of 6 to 14 years in such manner as the state may, by law, determine'. But this right is a still born right, as neither the required notification under section 1(2) of the 86th Constitutional Amendment Act, 2002 has been published in the Official Gazette by the Central Government, nor the manner in which this right is proposed to be enforced has been clarified through appropriate law as envisaged in the amendment.

In order to discuss the issues related to right to education, the National Human Rights Commission organised a two day "National Seminar on Right to Education" on 11th & 12th September, 2003. Based on detailed deliberations in the seminar, the following recommendations are made by the Commission.

1. In order to achieve some basic uniform standards, the Central Government should enact appropriate legislation at the earliest, as considerable time has already elapsed since the adoption of the 86th Constitutional Amendment Act, 2002 by the Parliament. However, as free education upon some level is already being provided in almost all the States, the State Governments need not wait for the Central Act in order to take measures for facilitating enforcement of this right.
2. Right to free and compulsory education should encompass all children until they complete elementary education i.e. class VIII instead of only the age criteria.
3. The terms like equitable quality of education, free and compulsory education, norms and standards, need to be defined or elucidated.
4. Adequate focus should be given to crafts and vocational training.

5. Central, State and Local Governments must assume the responsibility of ensuring right to education. Local Government bodies should strive to ensure participation and involvement of parents, local management committees, communities, non-governmental organisations, etc. in this regard.
6. Role and responsibility of each level of government/administration must be clearly defined in ensuring enforcement of the right to education.
7. The Government should make necessary provisions for early childhood care, education and development for the children of the age group of 0 to 6.
8. Minimum standards for all aspects of quality of education, including infrastructure, curriculum, teachers training, education and other pedagogic dimensions must be prescribed in consultation with professional bodies.
9. Universal access to quality education has to be treated as non-negotiable. Provision for free textbooks, uniforms and mid-day meal should be made universal.
10. There is a need to eventually convert short term interventions like Sarva Shiksha Abhiyan (Universal Elementary Education Programme) into formal system of education.
11. The scheme of para-teachers need to be abolished altogether and fully qualified and trained teachers need to be recruited. For this purpose there is need to expand and strengthen the teacher education/training institutions.
12. There is a need for substantial hike in the financial allocation to education. The allocations need to be periodically reviewed and enhanced to meet the requirements. Expenditure on education should not be treated merely as expenditure but as an investment.

13. The educational objectives must be made realistic and achievable. There is a need for a strict time frame for implementation of the right to education.
14. "Education for all" implies that education is extended to all children in conducive environment without discrimination and disparities in gender, socio-economic groups and other vulnerable sections of society are eliminated.
15. While education should follow common norms it should also to be adapted to local situations. Every child should be taught in the first language/mother tongue at least for the first two years, during which the child should be helped to learn in the prescribed medium of instructions in the State. The Three Language Policy should be strictly implemented.
16. Effective regulatory and evaluation mechanisms should be put in place to ensure implementation and quality assurance in school education system.
17. Private unaided schools should also enrol the children of poorer sections.
18. Continuous assessment should become the norm, both for teachers and children in school including SSA.
19. The existing norm of teacher-pupil ratio of 1:40 in primary schools and 1:35 in upper-primary schools should be maintained throughout. However, as a long term goal, efforts should be made to reach a ratio of 1:20/25.
20. The long term goal of education policy should be towards developing a uniform common school system.

Strength of India is having high percentage of young population: The challenge is with us to transform them into an asset.

The aforesaid recommendations placed before the Commission in its meeting held on 19th November 2008 and the Commission has approved these recommendations.



P. MICHAEL VETHA SIROMONY, IAS
JOINT SECRETARY (TRAINING)

Annexure B
राष्ट्रीय मानव अधिकार आयोग
National Human Rights Commission

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Website : www.nhrc.nic.in

D.O.No.10/22/2000-PRP&P

8th July 2009

Dear Shri yadav,
guls to you

Torture and other cruel, inhuman or degrading treatment or punishment is a serious violation of human rights and is strictly prohibited by the International Law.

The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment 1984 was signed by India on 14th October 1997 on the recommendations of the Commission. The Commission has been urging the Government to ratify this convention at the earliest.

In this regard, the Ministry of Home Affairs (MHA) vide letter dated 15th June 2006 sought comments of NHRC for introduction of bill in the Parliament to ratify this convention. The Commission conveyed its comments thereon to the Ministry vide letter dated 14th July 2006.

It is understood that draft legislation on the issue has been prepared by the Ministry of Law and Justice which has been sent to the State Governments/UT Administration for their comments. You are therefore requested to kindly send a copy of this draft legislation to the Commission.

Further, as the Commission proposes to follow it up with the State Governments, I therefore request you to kindly inform the Commission regarding the States/UTs whose response on the draft legislation is still awaited.

With regards

Yours sincerely,

P. Siromony
(P.M.V. Siromony)

Shri Arun Kumar Yadav
Joint Secretary (HR)
M/o Home Affairs
Room No. 21, Lok Nayak Bhawan
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ISSUED

1-9 JUL 2009

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Siromony