

**GOA HUMAN RIGHTS COMMISSION
PANAJI – GOA**

**ANNUAL REPORT
2020 – 2021**

Introduction

This is the tenth Annual Report of the Goa Human Rights Commission for the year 2020-2021 (1st April 2020-31st March 2021), presented to the State Government, in terms of Section 28 (1) of the Protection of Human Rights Act, 1993.

2. The Protection of Human Rights Act, 1993 provides for the constitution of National Human Rights Commission, State Human Rights Commissions in States and Human Rights Courts for better protection of human rights and the matters connected therewith or incidental thereto.

3. As per Section 2 (1) (d), “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 the courts in India. The Constitution of India has also guaranteed a right to life to all persons under Article 21. This right has been given a new dimension by the Court in the last three decades by interpreting the right to life in a liberal way. It has been held in catena of cases that the right to life includes the right to live with dignity and decency and also in a clean and healthy environment. Thus, any infringement of fundamental right also amounts to violation of human rights.

4. This Commission has made several recommendations from time to time in respect of the violation of basic human rights such as delay in payment of pension to the Government servants, delay in payment of salaries to the government servants, police atrocities against public members, illegal detentions of the persons by the Police allegedly involved in commission of crimes, blocking of right of access of the persons to reach their respective properties, etc. These recommendations were widely reported by press which made public members aware about their fundamental rights and also about the basic human rights which are available to them under the law. In absence of State Human Rights Commission in the State of Goa, the persons whose human rights were allegedly violated by the public functionaries were constrained to approach before the normal court of law which involves long and cumbersome procedure apart from being a costly affair. The establishment of Goa Human Rights Commission has fulfilled the aspirations

of the people of Goa who, now, have an easy access to justice to ventilate their grievances against public servants in the matter of violation of human rights.

5. The Government of Goa has allotted adequate office premises to the Commission consisting of 609.39 sq.mts in the Old Education Department Building at Panaji and has also provided adequate infrastructure for smooth functioning of the Commission.

Constitution of Commission

The Goa Human Rights Commission was constituted in the month of March, 2011 to exercise the powers conferred upon and to perform the functions assigned to the State Commission under Chapter IV of The Protection of Human Rights Act, 1993. Section 21 (2) of the said Act as substituted by Protection of Human Rights (Amendment) Act, 2019, lays down that the State Human Rights Commission shall consist of

- (a) A Chairperson who has been a Chief Justice or a Judge of a High Court.
- (b) 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.
- (c) One Member to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

The Constitution of the Commission during the period of this Annual Report was as under:

- (i) Justice Shri Utkarsh V. Bakre, Chairperson (Retired Judge of the High Court of Bombay).
- (ii) Shri Desmond D'Costa, Member (Retired Principal District and Sessions Court Judge of the State of Goa).
- (iii) Shri Pramod V. Kamat, Member (Former District and Additional Sessions Judge and former Law Secretary of the State of Goa).

Section 27 of the said Act mandates that the Government shall make available an Officer not below the rank of a Secretary to the State Government who shall be the Secretary of the State Commission and such Police and Investigative Staff under an Officer not below the rank of Inspector

General of Police and such other Officers and Staff as may be necessary for efficient performance of the functions of the State Commission. Police Officer of the rank of Inspector General of Police has not been provided by the State Government to this Commission so far, as there are no sufficient number of Police Officers of the rank of Inspector General of Police within the police force. Presently, Officer of the rank of Police Inspector is functioning as head of Police Investigation Team.

6. **Functions of State Commission**

Section-12 read with Section 29 of The Protection of Human Rights Act, 1993 provides for the functions of the State Human Rights Commission which inter alia includes the following functions:-

- (a) To inquire, suo motu or on a petition presented to it by the victim of any person on its behalf or on a direction or order of any Court, into the complaint 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 proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;*
- (c) To visit, notwithstanding anything contained in any other law for the time being in force, any jail or other institution under the control of State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, for the study of living conditions of inmates thereof and make recommendations thereon to the Government;*
- (d) To review the safeguards 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;*
- (e) To review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures;*
- (f) To undertake and promote research in the field of human rights.*
- (g) To spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, media, seminars and other available means;*

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

(i) To such other functions as it may consider necessary for the promotion of human rights.

7. Procedure adopted by the State Commission

The Goa Human Rights Commission has notified its own Regulation namely Goa Human Rights Commission (Procedure) Regulations, 2011, which is published under Section 10 and Section 29 of The Protection of Human Rights Act, 1993. One of the most important functions of the State Commission is to inquire suo motu or on a petition presented to it by the victim into the complaint of violation of human rights by a public servant. The State Commission has devised a simple procedure for receiving and dealing with complaints. A complaint can be filed either in person or through post or via e-mail. The State Commission does not charge any fee from the people for filing complaints.

Under Section 18 of the Protection of Human Rights Act 1993, are the steps that the Commission can take under the Act, when the inquiry discloses the Commission of violation of human rights or negligence in the prevention of violation of human rights or abatement thereof by a public servant and the powers of the Commission to recommend to the concerned Government authority, the steps as provided in Section 18 (a) (i) or 18 (a) (ii) or to take further action as deemed fit, in terms of Section 18(a)(iii).

Under Section 18(e) of the Act, the Commission shall send a copy of its inquiry report together with its recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission.

Under Clause 17 of the Goa Human Rights Commission (Procedure) Regulation 2011, a copy of the inquiry report along with the copy of recommendation shall be sent to the authority calling upon them to furnish their comments on the report including action taken or proposed to be taken within one month from the date of receipt of the Order or recommendation made by the Commission.

8. Powers of the Commission

The State Commission while inquiring into the complaints under the Act have powers of 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 examinations of witnesses or documents;*
- (f) Any other matter which may be prescribed.*

9. Complaints not ordinarily entertainable.

As per Regulation 9 of the Goa Human Rights Commission (Procedure), Regulations, 2011, the Commission may not entertain complaints:-

- (a) which are vague or anonymous or pseudonymous or trivial in or frivolous in nature;*
- (b) which are pending before any other Commission;*
- (c) which raise dispute of civil nature, such as property rights or contractual obligations;*
- (d) which relate to service matters or industrial disputes;*
- (e) which are not against any public servant;*
- (f) which do not make out any specific violation of human rights;*
- (g) which are covered by a judicial verdict or decision of the Commission;*
- (h) which are outside the purview of the Commission.*

10. Grants by State Government

As per Section 33 of The Protection of Human Rights Act, 1993, the State Government shall pay to the State Commission by way of grants such sums of money and the State Commission may spend such sums as it thinks fit for performing the functions under Chapter V. However, the Goa Human Rights Commission preferred to seek the provision in the Budget and powers are vested in the Secretary to the Commission who has also been delegated with powers of Head of Department to incur the expenditure on the affairs of the Commission and all the expenditure incurred are being pre-audited by the Directorate of Accounts. This arrangement was preferred by the Commission at par with the Goa Public Service Commission. During this period a Budget provision of 330.60 lakhs (Rupees three hundred thirty lakhs and sixty thousand only) was made. The Commission spent an amount

of Rs. 282.48 lakhs (Rupees two hundred eighty two lakhs and forty eight thousand only).

The Commission is also required to prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with Comptroller and Auditor General of India. However, as stated earlier, all the expenditure made, by the Commission is out of the provision in the Budget Estimates of 2020-2021, and pre-audited by the Directorate of Accounts.

Hence, it is not necessary to prepare its Annual Statement of Accounts and submit the same to the State Government as per provisions in The Protection of Human Rights Act, 1993.

11. During the period of 01/04/2020 to 31/03/2021, 279 complaints were registered and 163 cases were disposed of.

After the Commission was reconstituted in February 2020, the matters which were pending, were taken on board. But with the Covid-19 pandemic and lockdown imposed, matters could not be taken up regularly.

12. Amongst the cases disposed of between 01/04/2020 to 31/03/2021, the following are ten cases in which recommendations were made:-

1) Proceeding No.15/2019

This proceeding was disposed of on 22/03/2021.

The Complaint dated 14/01/2019 was received from the Complainant, complaining of violation of her human rights by the Respondent No.1, by delay of her salary payments from July, 2018.

The Complainant further stated that, to cause her harassment, Respondent No.1 sent an email to her that any leave without sanction will be treated as leave without pay. She stated that her salary from the months of July 2018 to November 2018 was paid in December, 2018 without any interest on the delayed payments.

The Complainant prayed before this Commission for taking action against the Respondent No.1 for violating her human rights and to direct the Respondent No.1 to pay interest at the rate of 8% on delayed salary from July 2018 and also for compensation.

The Respondent No.1 filed their reply on 12/03/2019 denying the contents of the complaint. They stated that they have followed the standard

procedure for processing the application for leave by the staff of the college and as the substitute candidate could not join duties, the sanction letter could not be given to the Complainant to proceed on Child Care Leave. They prayed that the proceedings be disposed with costs.

The Respondent No.2 filed their reply on 19/03/2019. They submitted that the Respondent No.1 by letter dated 13/04/2018 had informed the Respondent No.2 that the college management had sanctioned Child Care Leave of the Complainant and had requested for NOC for the appointment or substitute Assistant Professor in Chemistry on contract basis from 20/06/2018 to 30/04/2019. They stated that they conveyed approval for the same with the NOC dated 02/05/2018.

The Respondent No.2 stated that by their letter dated 12/11/2018, they informed the Respondent No.1 that the College could not apply "Leave without pay", rule in this case and the College was instructed to pay the salary or they would have to face the consequences and they were also informed that the Complainant has not received salary which is a violation of her human rights.

The Complainant filed Affidavit-in-Rejoinder on 03/05/2019 and the Respondent No.1 filed his Affidavit-in Sur Rejoinder on 03/11/2020.

The Commission heard Ld. Advocate Shri Sachin Desai for the Complainant and he also filed his written arguments. So also the Commission heard Ld. Advocate Shri Amey Prabhudessai for the Respondent No.1 and Shri D. N. Rane, Consultant (Administration) for the Respondent No.2.

On going through the complaint, replies of the Respondents, affidavits on record and the documents of the parties, the Commission found that there is no dispute that the Complainant had infact applied for Child Care Leave for 315 days from 20/06/2018 to 30/04/2019 well in advance, i.e. by application dated 22/02/2018.

The Commission agreed with Ld. Advocate Shri Sachin Desai for the Complainant that the Child Care Leave of the Complainant had been duly sanctioned by the Respondent No.1, as communicated to the Respondent No.2 by letter dated 13/04/2018. However, the Respondent No.1 had only not issued the sanction letter to the Complainant.

The Commission found that thereafter, the Respondent No.1 had paid the salary to the Complainant from July 2018 to November 2018 on 1st December, 2018 and held that the Ld. Advocate for the Complainant is right that the Respondent No.1 had withheld the salary dues of the Complainant from July to October, 2018 without following any procedure, thereby indicating that the right of Complainant to receive her salary in time had been violated by the Respondent No.1.

In ***Ramesh R. Kurhade vs Financial Advisor and Chief Accounts Officer, Establishment Section, 2019 SCC Online Bom 1060***, where one of the grievances was of withholding salary of the employee, without authority of law, the Bombay High Court by Judgment dated on 20th June 2019, directed the payment of simple interest at 7.5 % per annum to the Petitioner on the delayed payment of salary.

Guided by the above case law and in the facts of present case, the Commission held that the Complainant would be entitled to 7.5% interest per annum on the delayed salary amounts from July to October 2018 which were paid only on 1st December, 2018 i.e. for interest of 7.5% per annum on the delayed salary amounts (1) of 4 months on her salary of July 2018, (2) of 3 months on her salary of August 2018, (3) of 2 months on her salary of September 2018 and (4) of 1 month on her salary of October, 2018.

Accordingly, the Commission recommended that the Respondent No.2 ensure that the Respondent No.1 makes payments of the interest as calculated above to the Complainant within 30 days from the date of Order, towards compensation to the Complainant for the delayed payments of her salary.

2) Proceeding No.61/2020

This proceeding was disposed of on 17/02/2021.

An email dated 06/04/2020 from the Complainant was received in this Commission, whereby the Complainant stated that he retired from services with the Respondent No.2 in August 2005 and for last 15 years, his dues have not been received.

On perusing the complaint, the Commission, by Order dated 27/05/2020, called for the report from the Respondents.

The Respondent No.2 filed their report on 29/06/2020. The Respondent No.1 filed their report on 01/07/2020.

Written arguments on behalf of the Complainant were filed on 28/01/2021 and so also on behalf of the Respondent No.2.

From the records and proceedings, the Commission found that the dispute raised by the Complainant was in respect of payment of the retiral dues of Rs.6,50,514/-, being the amount due towards Leave encashment and Gratuity, which non-payment is a continuing cause of action.

In the reply of Respondent No.2 on 29/06/2020, they had admitted that the said dues were not released to the Complainant. However, they had not stated the reasons for not doing so.

The Commission noted that, the right to receive retiral benefits has evolved into one of the most important human rights and the Commission plays the role of a facilitator. The NHRC has been taking pioneering strides in the elucidation of retiral benefits as a human right, as non-payment and delayed payment is a violation of the human rights of the victim.

The Commission held that Courts have been directing to pay interest to the pensioners at the rate of Eight per cent per annum on the arrears of pension/retiral benefits calculated on and from the due date till actual date of payment.

Guided by the above, the Commission, under Section 18(a)(i), of the Protection of Human Rights Act, 1993, recommended that the Respondent No.1 facilitate that the Respondent No.2 pays to the Complainant the “Retiral Benefits” of Rs.6,50,514/- (Rupees Six lakhs Fifty thousand Five hundred Fourteen only) which are outstanding, along with simple interest thereon at 8% per annum from 01/09/2005 till actual payment, within 30 days from today.

After the Inquiry Report was pronounced, the copy was sent to the Respondents on 25/02/2021, calling for their comments on the report including action taken or proposed to be taken within a period of one month from the receipt of the report and recommendations.

Vide letter dated 01/04/2021, the Goa State Co-op. Bank Ltd., informed the Commission that the board has resolved to pay the Complainant along with simple interest thereon from 01/09/2005 till date of actual payment.

3) Proceeding No.137/2018

This proceeding was disposed of on 04/02/2021.

The complaint dated 29/06/2018 was received in the Commission on the same day.

By Order dated 16/07/2018, on perusing the complaint, the Commission called for the Report from both the Respondents, on or before 21/08/2018.

The complaint was in respect of non-payment of the salary since February 2018 of Shri Suryakant B. Naik, who was working as Headmaster of the school run by Respondent No. 1 and for reasonable compensation.

The brief facts of the case are that the Complainant was working as the Headmaster at Keerti Vidyalaya High School, Siolim-Goa and he was placed under suspension since 24/02/2014. After inquiry, the Complainant was found guilty. When the matter went to the Director of Education for its approval, under Rule 97 of the Goa, Daman and Diu School Education Rules, 1986, the Director did not approve of the major penalty of dismissal of service and ordered the punishment to be reduced to compulsory retirement.

The Complainant herein, by his application dated 29/06/2018, stated that Respondent No. 1 did not pay the salary of the Complainant since February 2018 onwards without any justification, resulting in misuse of powers by the Respondent No. 1 and also that the Respondent No. 2 failed to discharge its lawful duties contemplated under the Goa School Education Act, 1984. According to the Complainant, due to non-payment of salary since February 2018, great harassment, mental agony and mental torture has been caused to him and his family. He prayed to direct the Respondent No. 1 to disburse and release his salary since February 2018, with interest @ 12% per annum till the date of disbursement of salary and reasonable compensation.

The Respondent No. 1 in its reply dated 06/07/2020, contended that as per the Order of the Hon'ble High Court, they have already submitted the subsistence allowance claim to the GIA Section, Directorate of Education by letter dated 27/06/2019 and in pursuance to the same, the Complainant was paid full salary from 21/08/2014 to January 2018 and as the Complainant was paid excess of Rs. 4,99,288/- (Rupees Four Lakhs Ninety Nine Thousand Two Hundred Eighty Eight only) in full salary by

unintentional mistake, the said amount needs to be recovered or adjusted while paying subsistence allowance and the same issue is pending before the Director of Education.

In sum and substance, the Respondent No. 1 paid the Complainant Rs. 7,54,003/- (Rupees Seven Lakhs Fifty Four Thousand Three only) on 15/06/2020 in addition to the previous payment of Rs.4,32,022/- (Rupees Four Lakhs Thirty Two Thousand Twenty Two only), totalling to Rs.11,86,025/- (Rupees Eleven Lakhs Eighty Six Thousand Twenty Five only).

The Respondent No. 2 filed their Reply dated 16/10/2018, that they had sought the explanation from the school authority, i.e. Respondent No. 1 and annexed the reply of Respondent No. 1 thereto.

In the Rejoinder, the case of the Complainant is that he is entitled during the period of suspension, to subsistence allowance and other allowances under statutory/obligatory provisions of FR 53 and as per the Goa Education Act & Rules, 1984 and that the subsistence allowance for the month of February 2018 due in March 2018, was paid only on 15/06/2020, nearly after two years and three months. So also, the subsistence allowance for the period from March 2018 to June 2019 was delayed and the same was released only on 15/06/2020.

We heard the Complainant in person, Shri Parmanand Mandrekar, Manager of Respondent No. 1 and Shri D. Chawdikar, OSD, Legal Cell, on behalf of Respondent No. 2. We duly considered arguments advanced by the Parties hereto and perused the entire records.

The Hon'ble High Court of Bombay at Goa by its Order dated 20/06/2019, in Writ Petition No. 25/2019 filed by the Respondent No. 1 while remanding the matter at the stage of inquiry pertaining to the issue of approval of the major penalty of dismissal from service of the Complainant, also held that in the event the Respondent No. 1 herein owes any dues, particularly consisting of the subsistence allowance payable to the Complainant, the Respondent No. 1 will have to clear the same within three weeks from passing the order. In that context, it is the grievance of the Complainant that Respondent No. 1 failed to abide by the Order of the Hon'ble High Court until 15/06/2020, when Respondent No. 1 partly complied with the Order and paid an amount of Rs.7,54,003/- as dues from 01/02/2018 to 30/06/2019 and failed to pay to him the entire dues for the period between 01/02/2018 to 30/06/2019 and further the claim of Respondent No. 1 that the Complainant was paid excess amount of

Rs.4,99,288/- or any part thereof is without any basis as there was no order passed by any authority or any court of law reducing amount of subsistence allowance of the Complainant and that any controversy in that regard will be decided by the concerned authority on merits. The Respondent No. 1 however failed to place on record any material establishing excess amount being paid to the Complainant due to unintentional mistake by paying full salary instead of subsistence allowance for the period from 22/09/2015 to January 2018 in the sum of Rs.4,99,288/-. Even otherwise that controversy is to be sorted out in the inquiry.

The records showed that subsistence allowance of the Complainant for the month of February 2018 was due in March 2018 and however, the same was paid by the Respondent No. 1 only on 15/06/2020, after more than two years. Similar is the situation in respect of subsistence allowance for the period from March 2018 to June 2019, which was released only on 15/06/2020. There is also a delay in payment of subsistence allowance for the period from July 2019 to February 2020. As stated earlier, that the Complainant was paid excess amount of Rs.4,99,288/-, is without any basis and as stated, the same is to be dealt with by the Respondent No. 2, i.e. Director of Education, in the inquiry. The subsistence allowance paid from February 2018 to February 2020 amounting to Rs.17,76,273/- shows that the same is in conformity with his entitlement. Thus, the records indicate that despite the Order of the Hon'ble High Court dated 20/06/2019, the subsistence allowance was not paid to the Complainant during the stipulated period of three weeks from the passing of the said Order.

The Commission held that the claim of the Respondent No. 1 that they had submitted the claim in respect of the subsistence allowance of the Complainant in time to the Director of Education does not hold, as Respondent No. 2, Director of Education already intimated to the Respondent No. 1 that as per the laid down procedure for aided institutes, the claim for the salary/subsistence allowance should be made by the concerned aided school to the Director of Education before the given stipulated period of time for every month and therefore, the subsistence allowance for the month of February 2018 and subsequent months should have been paid every month.

The records also indicated that the Respondent No. 1 has not timely claimed the subsistence allowance of the Complainant before the Respondent No. 2, which resulted in considerable delay in payment of the subsistence allowance.

The Commission held that the Complainant was entitled for subsistence allowance as per the very stand of Respondent No. 1. The letter dated 19/08/2019 of Chairman, Managing Committee of Respondent No. 1, extending the Order for the period of suspension speaks for itself. It is not in dispute that the Respondent No. 1 had not paid the subsistence allowance to the Complainant for the months of November 2019, December 2019, January 2020, April 2020, May 2020, June 2020 and July 2020 and of the remaining period till date.

The Respondent No. 1 did not make out any case of the Complainant not fulfilling the required formalities in pursuance to their own letter dated 19/08/2019. Non-payment of subsistence allowance above mentioned is illegal, unjustified and smacks of malafides, thereby jeopardizing the rights of the Complainant.

The Commission was of the considered opinion that pending the Inquiry, the Complainant is entitled to subsistence allowance from the date and during the period of suspension under provisions of FR53.

That being the position, in terms of Section 18(a)(i) of the Protection of Human Rights Act, 1993, the Commission recommended the following:-

1) *“We recommended that the Respondent No. 2, ensure that the Respondent No. 1 pays the subsistence allowance of the Complainant from the month of November 2019 and till date within one month from today.*

2) *We also recommended that on account of unjustified delay, the Respondent No. 2 ensure that the Respondent No. 1 pays the costs of Rs. 10,000/- (Rupees Ten Thousand only) to the Complainant within one month from today, for causing agony and unnecessary hardship to the Complainant”.*

After the Inquiry Report was pronounced, the copy was sent to the Respondents on 10/02/2021, calling for their comments on the report including action taken or proposed to be taken within a period of one month from the receipt of the report and recommendations.

As the Action Taken Report has not been received, a reminder has been sent to the Respondents.

4) Proceeding No.186/2019

This proceeding was disposed of on 17/03/2021.

The Complaint dated 17/07/2019 was inwards in the Commission on the same day in respect of delay in pension of the Complainant after his voluntary retirement as LDC in the Civil and Criminal Court, South Goa, Margao.

The Complainant stated that he is an Ex-serviceman who was appointed as Goa Government Employee by the District and Sessions Judge, South Goa, Margao, by Order dated 05/12/2003 and he joined his duties on 10/12/2003.

He was relieved on voluntary retirement on 21/01/2017 in pursuance of the Order dated 10/01/2017 of the Respondent No.1, stating that he had rendered more than 10 years of service, qualifying for pension to the Government as on date. Thereafter, he submitted his pension papers.

The case of the Complainant is that, a Government servant appointed in a pensionable establishment on or before 31/12/2003 and who retires from Government service with a qualifying service of 10 years or more, is eligible for pension in terms of CCS Pension Rule 49(2).

Accordingly he prayed that the pension may be released which he is deprived of and he feels that he is being victimized.

On perusing the complaint, the Commission by Order dated 19/07/2019 called for the report from the Respondents.

The Respondent No.2, the Director of Accounts, filed his reply on 16/08/2019. They stated that the Complainant has completed a qualifying service of 10 years based on the entry in his service book. They stated that the Respondent No.1 stood relieved from his duties from 21/01/2017 accepting his notice for voluntary retirement in terms of Rule 5(i) of the State Civil Services (Retirement) Rules 2000.

The Respondent No.2 stated that the pension case of the Complainant was returned back to the Respondent No.1 by letter dated 05/02/2018 seeking clarifications as regards sanction of pensionary benefits in terms of Rule 5(i) of the State Civil Services (Retirement) Rules 2000 and the pension case was re-submitted by Respondent No.1 by letter dated 05/03/2018

stating that the Respondent No.1 has conveyed that the pensionary benefits have been sanctioned to the Complainant, as per Rule 49(2) of CCS (Pension) Rules 1972.

The Respondent No.2 stated that the benefits of Rule 49(2) of the CCS (Pension) Rules 1972 apply to the Government servant who retires under the provisions of the CCS (Pension) Rules 1972 and since the Complainant stands retired voluntarily under the Goa State Civil Service (Retirement) Rules 2000, he is not entitled for pension under the CCS (Pension) Rules, 1972.

The Respondent No.2 stated that the State Civil Services (Retirement) Rules 2000 do not specify as to how the pensionary benefits are to be regulated and they returned the pension papers back to Respondent No.1 by letter dated 13/07/2018 and the same was not re-submitted by Respondent No.1 till date.

The Respondent No.2 stated that the delay in finalizing and settlement of pensionary benefits is not caused on the part of the Respondent No.2.

The Respondent No.1 filed their reply dated 19/08/2019 giving details in respect of the pension papers of the Complainant. They referred to the letter dated 17/08/2016 from the Dy. Director, Directorate of Accounts, Panaji informing that the department is not the competent authority to examine and clarify the subject matter.

The Respondent No.1 has stated that the application for retirement of the Complainant in terms of Rule 5(i) of the Goa State Civil Services (Retirement) Rules, 2000 was accepted and the Complainant was relieved on 21/01/2017 to proceed on voluntary retirement.

The Respondent No.1 stated that on return of the pension papers by the Respondent No.2 by letter dated 13/07/2018, the Office of the Senior Civil Judge & CJM, Margao was requested to depute the responsible Head Clerk to the Directorate of Accounts with regard to the observations and compliance of the pension case papers.

The Respondent No.1 stated that on 08/01/2019, Shri Thomas Silva, Head Clerk was deputed to the Directorate of Accounts and he was informed that the Complainant, who had retired in terms of Rule 5(i) of the Goa State Civil Services (Retirement) Rules 2000 is not entitled for pension as he has not completed the required number of years of service for pension and if

required, the Respondent No.1 may approach the Government for further necessary action.

The Respondent No.1 stated that, accordingly, the Senior Civil Judge & CJM forwarded the Complainant's letter dated 14/03/2019 to the Finance Department (Revenue & Control), Panaji, through the Department of Law & Judiciary, Porvorim-Goa and requested the Secretary (Finance) Secretariat, Porvorim-Goa to look into the matter and do the needful at the earliest.

At the stage of final arguments, written arguments were filed by the Advocate Shri Crizanto Fernandes for the Complainant and he was also heard in the matter. Advocate Ms. Harsha Naik argued on behalf of the Respondents.

The Commission had gone through the records and proceedings and the documents relied on by the parties, as well as considered the oral and written submissions.

The Goa State Civil Services (Retirement) Rules, 2000 under Rule 3(5)(i) reads as under :

“Any Government servant may, by giving notice of not less than three months in writing to the appropriate authority, retire from service after he has attained the age of fifty years if he is in Group ‘A’ or Group ‘B’ service or post (and had entered Government service before attaining the age of thirty five years) and in all other cases, after he has attained the age of fifty five years”.

As seen from the above rule, any Government servant may by giving notice of not less than 3 months, retire from services after attaining the age of 55 years. As the Complainant had retired from Government services on 21/01/2017, after attaining the age of 55 years, there is no dispute that he retired in terms of Rule 3(5)(i) of Goa State Civil Services (Retirement) Rules, 2000. There is no dispute in this respect. As seen from the reply of the Respondent No.1, the Complainant's notice dated 20/10/2016 of his intention to retire from Government services was accepted by the Respondent No.1 noting that he had rendered more than 10 years service qualifying for pension. The Notice was in terms of Rue 3(5)(i) of the Goa State Civil Services (Retirement) Rules, 2000 and he was relieved from duties w.e.f. 21/01/2017 (forenoon).

At Serial No. 15, the following has been noted by the Personnel department :

“ The Goa State Civil Services (Retirement) Rules 2000 were framed to substitute the relevant provisions of FR-56 as laid down under these Rules. It therefore means that other provisions of FR & SR would apply to Government Servants in the State but for the corresponding portion of FR 56 as contained therein”.

This is totally true as under Rule 4(i), in respect of “Cessation and Saving”, on and from coming into force of the Goa Rules, the provisions of FR 56 shall cease to apply to all the employees in Group ‘A’, ‘B’, ‘C’ & ‘D’ posts under the Government of Goa. Thus, the Goa Rules only substituted the relevant provision of FR 56, which itself was in respect of compulsory/voluntary retirement of Government servants.

The Joint Secretary (Personnel) of the Personnel Department had noted at Sr.No.17, that the Directorate of Accounts have settled all other cases for pensionary benefits though the CCS (Pension) Rules, 1972 does not amplicitly cover cases of employees returning in terms of Goa State Civil Service (Retirement) Rules, 2000.

In the concluding Note No.18, in page 10/N, it has been stated as under :

*“It will be therefore appropriate to advert the implied interpretation in the above cases to the case of Shri Jesue Devido Furtado and **grant him pension in accordance with Rule 49 of the CCS (Pension) Rules 1972”.** (Emphasis added)*

The interpretation of the Personnel Department had been approved by the Chief Secretary on 10/12/2019 and by the Hon’ble Chief Minister on 11/12/2019, i.e. by the Goa Government, i.e. by the Competent Authority. The issue involved herein required interpretation of the pension rules. The matter being service related as per the rules of business is within the competence of the Personnel Department to interpret and adjudicate in the matter. Thus, the interpretation of the Personnel department on the issue in dispute having been approved by the Hon’ble Chief Minister, as the Minister for Personnel, attained finality and settled the disputed issue.

On the file, coming back to the Finance Department, it was noted that the Joint Secretary (Personnel) has examined the matter vide notings at pages 8/N to 10/N and has concluded that the pension may be granted to Shri J. D. Furtado in accordance with the Rule 49(2) of the CCS Pension Rules, 1972. The file was then referred to Accounts for examination of the matter.

Thereupon the Directorate of Accounts again made a detailed note dated 19/06/2020, that the matter may be re-examined, as there will be two concurrent voluntary Retirement Rules/Schemes and the regulation of pensionary benefits would be contradictory. As already pointed out above, the matter was examined by the Joint Secretary (Personnel) and approved by the Government of Goa, the decision of the Personnel Department being approved by the Chief Secretary and the Hon'ble Chief Minister, and thus decided the matter in favour of the Complainant. Yet the Complainant has been harassed by the non-payment of his pension.

On going through the records, the Commission found that the Complainant has been made to run from pillar to post and yet his pension has not been paid to him for last over 4 years after his retirement on 21/01/2017. The Complainant had joined the Goa Government Services on 10/12/2003 after earlier having been an Ex-Serviceman and Veteran from the Indian Air Force and having served in the Air Force for 20 years and who was discharged on 31/12/1999. Thereafter, he served in the Civil Court at Margao for 13 years, 1 month and 12 days, as on 21/01/2017, when he retired. By non-payment of his pension dues for over 4 years and till date, his human rights have been and continue to be violated, resulting in his undue harassment.

Based on the above case laws and in the facts of the present case and in terms of Section 18(a)(i) of the Protection of Human Rights Act, 1993, the Commission recommended that the Respondent No. 2 shall make payments of the arrears of pension to the Complainant, Shri Jesus Devido Furtado, due from 21/01/2017, in accordance with Rule 49 of the CCS (Pension) Rules, 1972, within 60 days from today and his future pensions be paid in accordance with law. The Commission recommended that all the arrears of the pension due from 21/01/2017 be paid to the Complainant with simple interest thereon of 6% per annum from the due dates till final payment, within 60 days from today.

After the Inquiry Report was pronounced, the copy was sent to the Respondents on 18/03/2021, calling for their comments on the report including action taken or proposed to be taken within a period of one month from the receipt of the report and recommendations.

As the Action Taken Report has not been received, a reminder has been sent to the Respondents.

5) Proceeding No.271/2013

This proceeding was disposed of on 22/03/2021.

The Complaint dated 27/11/2013 from the Complainants addressed to the Assistant Engineer, Electricity Department, Taleigao, was received in the Commission on 06/12/2013, regarding disconnection of electricity supply in the name of Mr. Afzal Khan.

The Complainants had stated that they are residing at House No.20/209 at Kevnem, Taleigao-Goa for the last several years. The Respondent No.1 had executed Leave & License Agreement of the premises in favour of the Complainants and other tenants.

The case of the Complainants was that the electricity connection in the said premises stands in the name of Mr. Afzal Khan. They also stated that the Respondent No.1 is trying for disconnection of electricity supply to the premises in order to harass the residents. They undertook to pay all the electricity bills without any delay.

On perusing the complaint, the Commission by Order dated 20/12/2013 issued notice to the Respondents.

The Respondent No.1 filed her reply on 28/02/2014 stating that the Complainants are neither tenants nor residents nor do they have the authority of any other persons to represent them. It is stated that the Complainants are trespassers who do not reside in the premises and there is no question of water and electricity as the Complainants are rank trespassers.

The Respondent No.2 filed their reply dated 17/04/2014. They stated that the electricity supply was temporarily disconnected on 03/01/2014 as requested by the consumer Mr. Afzal Khan.

The Complainants had also filed an application for interim relief. The Commission by Order dated 07/07/2015 had granted interim relief for restoration of electricity connection to the house no.20/209 on temporary basis till further orders of the Commission, holding that there cannot be any dispute that water and electricity are basic necessities of life and the Complainants cannot be deprived from such basic necessities and also it would amount to violation of basic human rights of the Complainant.

The Commission had recommended that the Respondent No.2 shall reconnect the electricity connection to house no.20/209 till further orders of the Commission subject to the condition that the Complainant shall pay arrears of electricity charges to the Respondent No.2, department.

By Order dated 18/08/2015, going through the records of the case, the Commission found that it was necessary to record evidence of both parties. At the stage of evidence, the Complainant No.1 Tarannum Kadroli filed her Affidavit-in-Evidence and was cross examined by the Advocate for the Respondent No.1. So also the Complainant No.2, Ms. Asma Adoor filed her Affidavit-in-Evidence and was cross examined by Advocate for the Respondent No.1.

At the stage of evidence of the Respondents, the Respondent No.1 remained absent and evidence of Respondent No.1 was closed on 14/01/2021. Ld. Advocate Shri A. Talaulikar for the Respondent No.2 stated that he does not wish to lead evidence.

At the stage of final arguments, Advocate Ms. V. Poulekar was heard on behalf of the Complainant. The Respondents remained absent.

The Commission had gone through the complaint, replies of Respondents No.1 & 2, evidence of both the Complainants and considered the submissions of Ld. Advocate Ms. V. Poulekar.

It is in the evidence of CW1 that there were about 15 families residing in house no.20/109 and at present there are only 5 families. So also CW2 had deposed that she is still residing in the said house. CW1 had deposed that the Commission had granted interim relief directing the PWD to restore electricity connection after clearing dues. There was no cross examination of CW1 on behalf of the Respondent No.2.

CW1, had deposed that she and her family members are residing in the house no.20/209 at Taleigao for last several years. So also CW2, Mrs. Asma Adoor had deposed that she had executed Leave & License Agreement dated 13/07/2012 and produced the copy of the same. She deposed that she and her family members are residing in the house for last 17 years.

The Commission found that, the Complainants have been residing in the house no.20/209 at Taleigao and the Respondent No.1 is harassing them by trying to seek the disconnection of water and electricity supply.

Under Section 18(a)(i) of the Protection of Human Rights Act 1993, the Commission recommended that the Respondent No.2 shall not disconnect the electricity connection to house no.20/209 as long as the Complainants are not lawfully evicted from the house no.20/209, at the instance of Respondent No.1 and provided, the electricity charges are paid by the Complainants to the Respondent No.2, from time to time and provided, the Complainants abide by the safety issues that may be raised by the Respondent No.2.

After the Inquiry Report was pronounced, the copy was sent to the Respondents on 22/03/2021.

6) Proceeding No.269/2013

This case had been disposed of on 22/03/2021.

The Complaint dated 27/11/2013 from the Complainants addressed to the Assistant Engineer, PWD, was received in the Commission on 06/12/2013, regarding disconnection of water supply in the name of Mr. Afzal Khan.

The Complainants had stated that they are residing at House No.20/209 at Kevnem, Taleigao-Goa for the last several years. The Respondent No.1 had executed Leave & License Agreement of the premises in favour of the Complainants and other tenants.

The case of the Complainants was that the water connection in the said premises stands in the name of Mr. Afzal Khan. They stated that water connection is disconnected on 25/11/2013. They also stated that the Respondent No.1 has moved an application for permanent disconnection of water supply to the premises in order to harass the residents. They stated that they have paid water bills for last 7 years to the

Respondent No.1 and there are about 15 families residing in the said premises.

They stated that the Respondent No.1 is trying to use the tactic of permanent disconnection of water as a means to harass and to illegally evict the residents. They undertook to pay all the outstanding water bills and the future bills without any delay in case the water supply is reconnected on permanent basis. The Complainants requested this Commission to reconnect the water supply with immediate effect or in the alternative to give a temporary connection until such time the formalities are completed for a permanent connection.

On perusing the complaint, the Commission by Order dated 20/12/2013 issued notice to the Respondents.

The Respondent No.1 filed her reply on 21/07/2014 stating that the Complainants are neither tenants nor residents nor do they have the authority of any other persons to represent them. It is stated that the Complainants are trespassers who do not reside in the premises. She objected to reconnect the water supply.

The Respondent No.2 filed their reply dated 21/07/2014. They stated that the water connection in the said property was disconnected on 26/11/2013 as requested by the owner of the premises and the meter holder by letter dated 20/11/2013. They stated that the water connection was in the name of Respondent No.1, Smt. Almas Khan.

The Respondent No.2 also stated that the Respondent No.2 is also concerned with payments of water charges and non payments of the same, invites disconnection. They stated that Respondent No.2 has to receive amount of Rs.13,507/- and Rs.300/- as the reconnection charges.

The Complainants had also filed an application for interim relief. The Commission by Order dated 07/07/2015 had granted interim relief for restoration of water connection to the house no.20/209 on temporary basis till further orders of the Commission, holding that there cannot be any dispute that water and electricity are basic necessities of life and the Complainants cannot be deprived from such basic necessities and also it would amount to violation of basic human rights of the Complainant.

The Commission had recommended that the Respondent No.2 shall reconnect the water connection to house no.20/209 till further orders of the Commission subject to the condition that the Complainant shall pay arrears of water charges to the Respondent department.

By Order dated 18/08/2015, on going through the records of the case, the Commission found that it was necessary to record evidence of both parties. At the stage of evidence, the Complainant No.1 Tarannum Kadroli filed her Affidavit-in-Evidence and was cross examined by the Advocate for the Respondent No.1. So also the Complainant No.2, Ms. Asma Adoor filed her Affidavit-in-Evidence and was cross examined by Advocate for the Respondent No.1.

At the stage of evidence of Respondents, the Respondent No.1 remained absent and evidence of Respondent No.1 was closed on 14/01/2021. Ld. Advocate Shri A. Talaulikar for the Respondent No.2 stated that he does not wish to lead evidence.

At the stage of final arguments, Advocate Ms. V. Poulekar was heard on behalf of the Complainant. The Respondents remained absent.

The Commission had gone through the complaint, replies of Respondents No.1 & 2, evidence of both the Complainants and considered the submissions of Ld. Advocate Ms. V. Poulekar.

It is in the evidence of CW1 that there were about 15 families residing in house no.20/109 and at present there are only 5 families. So also CW2 had deposed that she is still residing in the said house. CW1 had deposed that the Commission had granted interim relief directing the PWD to restore water connection after clearing dues. There was no cross examination of CW1 on behalf of the Respondent No.2.

CW1, had deposed that she and her family members are residing in the house no.20/209 at Taleigao for last several years. So also CW2, Mrs. Asma Adoor had deposed that she had executed Leave & License Agreement dated 13/07/2012 and produced the copy of the same. She deposed that she and her family members are residing in the house for last 17 years.

The Commission found that, the Complainants have been residing in the house no.20/209 at Taleigao and the Respondent No.1 is harassing them by trying to seek the disconnection of electricity and water supply.

Under Section 18(a)(i) of the Protection of Human Rights Act 1993, the Commission recommended that the Respondent No.2 shall not disconnect the water connection to house no.20/209 as long as the Complainants are not lawfully evicted from the house no.20/209, at the instance of Respondent No.1 and provided, the water charges are paid by the Complainants to the Respondent No.2, from time to time.

After the Inquiry Report was pronounced, the copy was sent to the Respondents on 22/03/2021.

7) Proceeding No.192/2017

This case had been disposed of on 01/02/2021.

The Commission had received the Complaint on 31/07/2017, in respect of harassment for restoration of water supply to the mundkarial house No.B-73, Opp. Syndicate Bank, Betim, Bardez-Goa.

It is the case of the Complainant that the water connection was almost 39 years old and was taken in the name of his late grandfather, Mr. Pandurang Talaulikar on 26/07/1979.

It was stated that currently the said water pipeline is damaged by Mr. Agnelo D'Souza and his wife and his Grandmother had given a written complaint on 17/08/2016 about non working of the water meter and non supply of water to their residence.

The Complainant states that the PWD is asking them to obtain fresh NOC when the actual owner had already permitted NOC in the year 1979 for the said connection. As such, the Complainant approached this Commission.

The Commission vide its Order dated 07/08/2017 called for the report from the Executive Engineer of PWD, i.e. Respondent No.1.

The respondent No.1 filed their report/reply on 23/07/2017 stating that the water connection was released in the name of Shri Pandurang Talaulikar in the year 1979 by laying pipeline through the private property bearing Survey No.62/5 of Village Reis Magos with the written consent of the land owner, Mr. Mingel D'Souza, whose name was appearing in Form I & XIV.

The Respondent No.1 stated that the grievances of the Complainant cannot be addressed as the owner of the private property is adamant in not allowing the repairs of the pipeline pertaining to the Consumer.

Both the Complainant and the Respondent No.1 had attached documents to the complaint and reply, respectively.

On 27/11/2017, the Complainant filed Rejoinder stating that Mr. Mingel D'Souza was uncle and not father of Mr. Agnelo D'Souza. He also stated that, as per the Official Gazette dated 07/03/1963, the Water Works department has right to give water connection to the house, even when the pipeline has to cross a plot of another owner, provided that no other solution is technically acceptable.

There upon the Respondent No.1 filed his further reply on 16/01/2018 stating that the Notification dated 07/03/1963 is repealed by the provisions of the Water Supply Act 2003. It was stated that the Respondent No.1 has tried his level best to restore the water supply to the Complainant but due to the legal issue, it could not be restored.

The Complainant filed his further reply on 09/02/2018.

Subsequently, Mr. Agnel D'Souza moved an intervention application on 02/04/2018. By Order dated 10/10/2018, the Intervenor was joined as the Respondent No.2 in the Proceedings.

The Respondent No.2 filed his reply on 10/01/2019 stating that the Complainant is not residing in the suit house and they have separate residences in Salvador-do-Mundo and at Caranzalm. The Respondent No.2 also stated that the Complainant has sought the same relief before the Mamlatdar of Bardez in Mundkar declaration application filed by the Complainant.

The Respondent No.2 further stated that he has filed a Civil Suit against the Complainant. The Respondent No.2 states that the PWD officials have no right to trespass into his property and prayed that the complaint be dismissed.

The Complainant filed his Rejoinder on 06/01/2019 to the above reply of the Respondent No.2.

On 19/03/2020, the Respondent No.2 filed his written arguments in the matter, followed by the written arguments of the Complainant on 12/06/2020.

Arguments of all the parties were also heard on 15/12/2020. The Complainant argued in person. Shri Deepak Borkar, Assistant Engineer argued in the matter for the Respondent No.1 and Advocate Shri U. Khot argued for the Respondent No.2.

The question before the Commission was whether once the NOC was given in the year 1979 by the owner and the pipeline was laid, now only for replacing the damaged pipeline, whether fresh NOC of the present owner is required.

The Commission found that there is no provision of law that the fresh NOC from the present owner would be required for replacing the damaged pipeline. The Commission held that the present owners have inherited the property from the earlier owner and all the encumbrances imposed by the earlier owner of the property will continue to be valid.

The Commission agreed with the Complainant that the Respondent No.1 themselves have stated in their letter dated 01/09/2016 that no additional or new pipeline will be installed but only repairs/replacement of the existing pipeline are to be done, for which NOC was given by the owner at the time of release of the connection.

In view of the same, the Commission found that the Respondent No.1 is duty bound to restore water supply to the house of late Shri Pandurang Talaulikar as the NOC was already given by the original owner in 1979. By not restoring the pipeline, the human rights of the Complainant have been violated by the Respondent No.1.

The Complainant had relied on the Government Official Gazette published on 17/03/1963 under Series I, No.10. As rightly pointed out by the Respondent No.1, under the Goa Provision of Water Supply Act 2003, which was published in the Official Gazette on 29/12/2003, under Clause 10, it has been stated that so much of any law in force in the State of Goa relating to the supply of water to the consumers, shall stand repealed, as from coming into force of the Act. The Act came into force w.e.f. 22/07/2003.

In any case the original water supply was provided to the house of Shri Pandurang Talaulikar, not under the said Gazette of 1963 but admittedly on the NOC given by the owner of the property. As such, the repeal is of no consequence.

The Commission recommended that the Respondent No.1 restore the water connection to the house of the Complainant, by replacing the damaged water pipeline, in the same direction as it exists at present, through the

property bearing Survey No.62/5 of Village Reis Magos and leading to the house No.B-73 at Betim, within 30 days from the date of receipt of this Order.

After the Inquiry Report was pronounced, the copy was sent to the Respondents on 10/02/2021, calling for their comments on the report including action taken or proposed to be taken within a period of one month from the receipt of the report and recommendations.

As the Action Taken Report was not received, a reminder has now been sent to the Respondents.

8) Proceeding No.252/2018

This case had been disposed of on 07/01/2021.

The Proceedings started by the Order of this Commission dated 23/11/2018, taking Suo Motu cognizance of the Newspaper report which appeared in the daily 'Lokmat', dated 22/11/2018, under the caption "Vohol, nalezalekachra, durgandhichestroth" (Springs, nallahs have become source of garbage, foul smell).

The Commission called for detailed report from the Respondents by 14/12/2018.

The Respondent No.1 filed their Reply on 14/12/2018, along with their Inspection Report of the site inspection carried out on 15/10/2018, starting from Anjuna Dam upto Vithal Mandir, Sanquelim.

The Respondent No.2, Village Panchayat Morlem, filed their report dated 11/02/2019, along with the annexures. They undertook to further take every measure that will be suggested by any authority or directions given by this Commission. So also the Respondent No.5 filed their report dated 02/07/2019, along with the annexures.

The Commission heard Ld. Advocate Shri J. Godinho for the Respondent No.1. He submitted that the Respondent No.1 has taken steps after receiving notice from the Commission.

Taking into consideration the replies of the Respondents, the Commission finds that the Respondent No.1 had given directions to the Village Panchayats of Kerim, Poriem and Morlem, for collection and disposal of waste in their jurisdiction.

The report dated 11/02/2019 of the Village Panchayat, Morlem

indicates that the Village Panchayat has been making efforts in the Village regarding curtailing pollution of the Valvanti river.

From the Reply of the respondent No.2 along with the photographs annexed, it is seen that they have displayed the sign board near the Valvanti river prohibiting washing of vehicles in the river and informing about imposition of fine by the Panchayat.

So also the Reply of the Respondent No.5 dated 02/07/2019, indicates that the reports were received from the Village Panchayats of Poriem, Kerim and Morlem, who had done site inspection and not found any plastic waster or dry waster near the river bank.

There is a letter of the Sarpanch of Village Panchayat, Morlem addressed to the Block Development Officer, Sattari-Goa dated 26/02/2019 stating that, after the Newspaper reports, the site inspection was carried out by the Panchayat and notices were published on all public places, not to dispose any garbage waste/sewage waste in Valvanti river/Nallah. They have also stated that they have appointed labourers for collecting door to door garbage and are having awareness camps in the Village Panchayat and they also erected Public Notice Board on the river bank.

The Commission found that, after the Newspaper Report dated 22/11/2018 and the notices of the Commission dated 23/11/2018, the Respondents had taken steps for controlling the dumping of garbage in the Valvant river/Nallah.

The Commission recommended as under :

The Village Panchayats of Morlem, Keri and Poriem shall inspect every six months, the site of the River Valvanti and see that the garbage dumped or accumulated is removed/collected from time to time and shall take all the measures to curtail pollution of the River Valvanti and its tributaries, springs and nallahs, and to prevent any encroachments therein.

After the Inquiry Report was pronounced, the copy was sent to the Respondents, calling for their comments on the report including action taken or proposed to be taken within a period of one month from the receipt of the report and recommendations.

9) Proceeding No.251/2018

This case had been disposed of on 07/01/2021.

The Proceedings started by the Order of this Commission dated 23/11/2018, taking Suo Motu cognizance of the Newspaper report which appeared in the daily 'Lokmat', dated 23/11/2018, under the caption "Atikramanamule Valvantichi sthithi bikat" (Encroachment in 'Valvanti' River leaves it in pathetic condition).

The Commission called for detailed report from the Respondents by 14/12/2018.

The Respondent No.1 Village Panchayat Morlem, filed their reply dated 12/12/2018, along with the Annexures. They undertook to further take every measure that will be suggested by any authority or directions given by this Commission. The Respondent No.3 filed reply dated 03/07/2019, with the Annexures. So also the Respondent No.4 also filed their report dated 03/07/2019, along with the annexures. The Respondent No.5 filed their reply dated 12/12/2018 that no new construction or any physical encroachment was noticed along the Banks of the Valvanti or its tributaries.

The Respondent No.7 filed their Reply on 14/12/2018, along with their Inspection Report of the site inspection carried out on 15/10/2018, starting from Anjuna Dam upto Vithal Mandir, Sanquelim.

The Commission heard Shri Sanjeet Gaonkar, LDC of the Respondent No.1, Ld. Advocate Ms. K. Govekar for the Respondents No.2 & 3 and Ld. Advocate Shri J. Godinho for the Respondent No.7. They submitted that the Respondents have taken steps after receiving notice from the Commission.

Taking into consideration the replies of the Respondents, the Commission finds that the Respondent No.7 had given directions to the Village Panchayats of Kerim, Poriem and Morlem, for collection and disposal of waste in their jurisdiction.

The report dated 11/02/2019 of the Village Panchayat, Morlem indicates that the Village Panchayat has been making efforts in the Village regarding curtailing pollution of the Valvanti river.

From the Reply of the Respondent No.2 along with the photographs annexed, it is seen that they have displayed the sign board near the Valvanti river prohibiting washing of vehicles in the river and informing about imposition of fine by the Panchayat.

So also the Reply of the Respondent No.4 dated 02/07/2019, indicates that the reports were received from the Village Panchayats of Poriem, Kerim and Morlem, who had done site inspection and not found any plastic waster or dry waster near the river bank.

There is a letter of the Sarpanch of Village Panchayat, Morlem addressed to the Block Development Officer, Sattari-Goa dated 26/02/2019 stating that, after the Newspaper reports, the site inspection was carried out by the Panchayat and notices were published on all public places, not to dispose any garbage waste/sewage waste in Valvanti river/Nallah. They have also stated that they have appointed labourers for collecting door to door garbage and are having awareness camps in the Village Panchayat and they also erected Public Notice Board on the river bank.

The Commission found that, after the Newspaper Report dated 23/11/2018 and the notices of the Commission dated 23/11/2018, the Respondents had taken steps for controlling the dumping of garbage in the Valvant river/Nallah.

The Commission recommended as under :

The Village Panchayats of Morlem, Keri and Poriem shall inspect every six months, the site of the River Valvanti and see that the garbage dumped or accumulated is removed/collected from time to time and shall take all the measures to curtail pollution of the River Valvanti and its tributaries, springs and nallahs, and to prevent any encroachments therein.

After the Inquiry Report was pronounced, the copy was sent to the Respondents, calling for their comments on the report including action taken or proposed to be taken within a period of one month from the receipt of the report and recommendations.

10) Proceeding No.195/2018

This proceeding was disposed of on 10/12/2020.

The complaint dated 19/09/2018, was received in this Commission on the same day from the Complainant, stating that there have been human rights violations, alleging that his pay and allowances have not been paid for seven months.

The Complainant had stated that he is a retired Assistant Accounts Officer of the Government of Goa and was re-employed as Sr. Accountant in

February 2016 in the Goa Football Development Council which was housed at the Myles High Hotel & Towers Pvt. Ltd, Patto Plaza, Panaji-Goa.

It was the case of the Complainant that in March 2018, he was surprised to note that his salary was not credited to his bank account and withheld by the Member Secretary of GFDC for want of his written explanation which had been already furnished. He stated that till he filed the complaint before this Commission, his monthly pay and allowances were not released by the Respondent for the last seven months and his fundamental rights have been violated.

The Commission perused the complaint and by Order dated 21/09/2018, called for the report from the Member Secretary, Goa Football Development Council.

The Respondent stated that on account of the serious lapse on the part of the Complainant, the Council had to incur expenditure on restoration and replacement of missing items from the vacated premises and finally the Council amicably settled the entire issue of retained vacant premises with the owner of Myles High in the month of May 2018, on 11/05/2018. The Respondent stated that after resolution of all issues, the withheld component of monthly remuneration of the Complainant has been released without any deductions. The Respondent attached some documents to the Report.

Written arguments have been filed by the Complainant and the Respondent. The Commission also heard the Complainant and Adv. Ms. Harsha Naik for the Respondent.

From the complaint, the report/reply, the Rejoinder, the documents of both sides, the written arguments and oral submissions, it is clear that the Complainant was a retired Government Officer, who had been re-employed on contract basis with the Goa Football Development Council from 2016 till 30/10/2018.

The Commission held that the Member Secretary had made out no grounds for delay of payments of the contractual amount that was due to the Complainant from February 2018 till August 2018.

In the present case, soon after filing the complaint in this Commission on 19/09/2018, the Goa Football Development Council eventually paid the Complainant his dues by NEFT on 06/10/2018, amounting to Rs. 2,92,928/-. For the mental harassment caused to the retired Government servant by unduly harassing him by withholding his dues, the Commission found that he is entitled for a reasonable compensation.

Taking interest at the rate of 10% per annum on Rs. 2,92,928/-, the compensation worked out to around Rs.29,000/-. As the Commission had concluded that the Complainant was subjected to mental harassment and was deprived of his human rights by the Member Secretary, the Commission recommended that the Member Secretary of the Goa Football Development Council pay to the Complainant compensation of Rs.29,000/- (Rupees twenty nine thousand only) and recover the same from the then Member Secretary, GFDC, Shri Aleixo F. da Costa.

Under Regulation 17 of the Goa Human Rights Commission (Procedure) Regulations, 2011, a copy of the report and the recommendation shall be sent to the Member Secretary, GFDC, calling upon it to furnish its comments on the report including action taken or proposed to be taken, within a period of one month from the date of receipt of the Report and recommendations.

Action Taken Report on the recommendation of the Inquiry Report dated 10/12/2020, has not been furnished by the Respondent. Further time allowed. In Writ Petition (F) No. 115/2021, the Order was passed for interim suspension of the Order of this Commission dated 10/12/2020.

Reminder has been issued to the Respondent to submit comments including Action Taken Report or proposed to be taken.

Sd/-
(Justice U.V. Bakre)
Chairperson
Goa Human Rights Commission

Sd/-
(Desmond D'Costa)
Member
Goa Human Rights Commission

Sd/-
(Pramod V. Kamat)
Member
Goa Human Rights Commission

Dated: 12/07/2021
Place: Panaji – Goa.