

Human Rights Act 1993

12th October, 1993

NATIONAL HUMAN RIGHTS –

21 (H) Human rights of Minorities – Backward classes – Protection of child's right act 2005.

National Human right commission (5 men..)

- 1) Chairman – Retired Judge of Supreme Court
- 2) Chief Justice of High court
- 3) One woman – and two members

Powers and functions of commission.

Appointed by President – and 6 members committee headed by Prime Minister.

State Human Rights Commission - (5 person)

- 1) Chair person – Chief Justee of High court of High Court Judge.
+ one member of District Judge.
- 2) Other 2 members one woman.

Statutory Status :- Rights relating to life, liberty, equality and dignity of individual guaranteed by the constitution or embanked in the and forceable by court in India.

Organised in Paris

The protection of Human rights Act 1973.

N.H.R.C.

Articles – 30 Articles coursing both Civil Practical Rights, Social and Cultural Rights Article 1-2 General equality before law.

Article 3-1 Civil and Partical Rights

Article 2-17 Right of Individual within Civil and Partical Security Right to freedom of movement, right to nationality, right to momy and found a lonely.

Article 18-21 – Spritual and Religious rights of individuals such as freedom of thought and conscience right to your our opinion – right to peaceful absently right to vate and take part in govt.

Article 22-27 – Social, Economical and cultural rights, Rights to work, right to rest and leisure, right to decent standard of living and the right to education.

Article – 27 – 30 - Right come with obligation – U.D.H.R.

Universal declaration of Human rights.

Declaration is not a treaty – not enterable –

Articles 12 to 35 – of the constitution deals with the fundamental Rights.

Articles 15 – provides that the state shall not discriminate any citizens on grounds new of religion, race, caste, sex, place of birth or any of them subject to liability, disability restriction or condition with regard to Acers to shops public restaurants, hotel and places of public

entertainment use of roads, wells, and other places dedicated to the use of general public in case of private property the public may not be allowed to end it.

Article 16 – Equality of opportunity for all citizen in matters relating to employment or appointment to any office under the state No. Citizen shall, on grounds only of religion, race, sex, caste, descent, place of birth, residence or any of them be ineligible for or discriminated against in respect of any employment or office under the state.

Article 17 – Provides that untouchability in any form is forbidden. The enforcement of any disability arising of untouchability shall be an offence punishable in accordance with law.

Article – 18 – No title other than a military or academic distinction shall be conferred by the state. No person who is a Citizen of India, shall hold any office of profit or trust under the state, shall without the consent of the president employment or office on any kind for and under any foreign state.

Article - 19 – According to the Article 19, all citizen shall have the right to freedom of speech and expression and assemble peacefully and without arms to form association, or unions to move freely through out the territory of India to reside and settle anywhere in India, to acquire and dispose of property, and to practice any profession or carry any occupation, trade or business these rights are not absolute and consequently certain limitation have been placed on the exercise of these rights. The reasonable restriction one of placed in the interest of the security of the state, decency or morality, in relation to contempt of court, defamation or incitement to an offence. However a person cannot exercise his freedom of speech to promote enmity between

classes and sedition restriction on freedom of movement can be restricted in the interest of public order or avoiding the spreading of disease (contagious) avoidance of pestilence.

Article 20 : No person shall be convicted of any offence except of violation of a law in force at that time of commission of the act charged as an offence nor be subject to a penalty greater than that which might have been inflicted under the law in force at the time of commission of the offence. No person shall be prosecuted and punished for the same offence more than once.

It has been modified as regards oral testimony of witness by introducing compulsion and providing immunity from prosecution on the basis of such compelled evidence.

Note : due process – Article 21 secures “Procedural due process only by adopting the phrase ‘established by law’ in preference to due process of law.”

Article 22 : According to article 22 No person who is arrested shall be detained in custody without being informed, as soon as may be on the grounds for such arrest shall be denied the right to consult and be defended by a legal practitioner of his choice. Every person who is arrested and detained in custody shall be produced before the magistrate within a period of 24 hours no such person shall be detained in the custody for more than 24 hrs. without the authority.

The Article 22 provisions do not apply to any person detained or arrested under any law providing for preventive detention. In case

any person is detained in pursuance of an order under the law providing for preventive detention, the authority making that order shall, as soon as he be communicated to such person the grounds in which the order has opportunity of making a representation against the order.

PREVENTIVE DETENTION

Preventive detention can take place only in times of war or emergency, but even in normal times and peaceful times 2) the second point to be noted is that preventive detention cannot take place without the taking the opinion of Advisory Board. The Jurisdiction of Advisory Board is compulsory a detention.

Punitive detention & preventive detention the object of preventive detention is to punish a person for that he has done.

Whereas the object of preventive detention, it to prevent the individual not merely from action in a particular way but from achieving a particular object. A person is punitively detained only after a trial for committing a crime after his guilt has been established in a competent court of justice.

Preventive detention on the other hand is a precautionary manner. The subject is not to punish a man for having done something but to intercept him before he does it and prevent him from doing so. No offence is proved, nor any charge formulated, and the justification is suspicion or reasonable possibility and not criminal conviction.

Which only can be warranted by legal evidence.

B) An order of detention can be all acted on any of the following grounds.

- 1) The order is not by an officer or authority empowered under which the detention is ordered.
- 2) The person detained is not the person intended to be detained and there has been a case of mistake identity.
- 3) There is a lack of bonafids on the part of detaining authority or government and on whose authority it acted did not apply his mind to be satisfied about the necessity for detention.
- 4) The order of detention does not disclose any reason which would justify detention.
- 5) The object of the order is the prevention for a person from being released on bail.
- 6) The absence of any connection of the ground on which the order is made with the maintenance of public order for which detention has been ordered.
- 7) The ground of detention is the investigation of crime.
- 8) The person against whom an order of preventive detention has been made is already in Jail awaiting his trial in respect of certain offences.
- 9) The grounds of detention are vague and indefinite and not clear and precise.
- 10) The grounds are far fetched and have no real and proximate condition with the necessity for detention.

Article 23: According to Article 23, traffic in human beings and beggars, and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

Article 24 :Any child below the age of 14 years shall not be employed to work in any factory or mine or engaged on any hazardous employment.

Article 25 : Provides that subject to public order, health and morality, all persons are equally entitled to freedom of conscience and the right freely to profess and propagate religion.

Article 26 : Provides to public order, morality and health. Every religious denomination or any section there of shall have the right to establish and maintain instituties of religious and charitable purposes, to manage its own affairs, to own and acquire moveable property.

Article no. 27 : According to Article 27 the person shall ne compelled to pay any taxes, the proceeds of which are specifically appropriated to payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

Article 28) According to Article 28 no religious instruction shall be provided in any educational institutionwhally maintained out of state funds. It will not apply to an educational institution which is administered by the state but has been established un an endorsement or trust.

Article 29 : According to Article 29, any section of the citizens residing in the territory of India or any part of India having district language, agree to culture of its own shall have a right to conserve the same. No citizen shall be denied admission into any educational institution maintained by the state or receiving fund (aid) out of states funds on ground only of religion, race, cost language or any of them.

Article 30 : All minorities, whether based on religion or language shall have the right to establish and administer educational institution of their choice.

The cultural and educational institution of their choice. The cultural and educational rights of the minorities are constitutionally protected.

Right to property : Article 31 A & 31B deal with right to property. According to the Articles 31, 31-A & 31-B no person can be deprived of his property save by the authority of law.

Right to constitutional remedies Article 32 It is the very soul of the constitution and the very heart of it. A person can approach the supreme court with the request to protect his fundamental rights if violated.

Certiorari - Means to be more fully informed of A writ of certidari is issued by a superior court to an interior court requiring letter to send the record of the a particular case pending before it to the superior court such a writ is issued in the interest of speedy and efficient justice because the interior court may not be competent to deal with the matter. It is a preventive rather than a remedial means.

FUNDAMENTAL DUTIES

1. Respect the constitution, the National flag and the National Anthem.
2. Cherish the noble ideas of freedom straggle.
3. Uphold and protect the sovereignty unity and integrity of India.
4. Defend the country and render national service when called upon to do so.
5. Promote the common brother hoad of all the people of India and renounce any practise of derogatory to the dignity of women.
6. Preserve the rich heritage of nation's composite culture.
7. Protected the natural environment and have compassion for living creatures.
8. Develop scientific tempo, humansion and spirit of inquiry and reform.
9. Safeguard public property and abjure violence.
10. Strive for excellence in all individual and collective activity.

The supreme court can issue direction or orders or writ including the wrts of (for the enforcement of there rights)

- 1) Flambeaus corpus.

- 2) Mandamus
- 3) Prohibition
- 4) Quo warrants
- 5) Certiorari

- 1) Habeous corpus – It means you may have the body. The object of such a writ is that no person remain in jail without cause. The authority who has arrested the person and in who custody the person is, is directed to produce the person in custody before the court.
- 2) A writ of Mandamus (we command) A writ of Mandamus is the writ of a most extensive remedial nature A writ of Mandamus is a command issued by the superior court, directing any person, corporation, which pertains to his or their office this writ is used for public purposes for the performance of his public duties.
- 3) Prohibition a writ of Prohibition is usually issued by a Higher court to stop proceedings in a louver count in the ground of excess of Jurisdiction or violation of the rules of natural justice.
If any judge or any party proceeds with the case inspite of issuing of the writ of prohibition contempt of count proceeding can be instituted.
- 4) Gao warranto (By what warrant) such a writ is issued by the court when a person acts in a capacity of which he is pat entitled. Such a writ requires the person against when it is issued to show by what authority he supports his claim. Such a writ is in the nature of injunction.