

NHRC and Kota deaths

February 5, 2020

Source: *The Hindu*

Manifest pedagogy: NHRC is an important non-constitutional body which secures human rights and guards against their violation by both state and non state actors. In light of the recent enquiry by the NHRC into the kota deaths we have to know about the powers and limitations of NHRC.

In news: NHRC has asked Rajasthan to explain recent Kota deaths

Placing it in syllabus: Non-constitutional bodies

Static dimensions:

- NHRC origin, its functions and powers
- Limitations of working of NHRC and solutions

Current dimensions: What is the issue about?

Content:

The National Human Rights Commission (NHRC) has issued a notice to the Rajasthan government over the **death of more than 100 infants at state-run J.K. Lon hospital in Kota** since the beginning of December, 2019. The rights panel has observed that the painful death of children in such a large number is a “matter of concern”.

The **commission has issued a notice to the chief secretary of the state**, seeking a detailed report including the steps being taken to address the issue. It has asked the authorities to ensure that in future children do not die due to lack of infrastructure and health facilities at the hospitals.

As per the statistics quoted by the state authorities, **963 children have died in the year 2019** at J K Lon government

hospital. Over **50 percent of the gadgets installed in the hospital are defunct** and the hospital is lacking cleanliness and basic infrastructure including oxygen supply in the Intensive Care Unit.

NHRC origin, its functions and powers:

- **Universal Declaration of Human Rights (UDHR)** was adopted by the UN General Assembly in Paris on **10 December 1948**.
- It is a milestone declaration which for the **first time, set out that fundamental human rights to be universally protected**.
- **Human Rights Day** is observed every year on 10 December, which is the anniversary of the UDHR.
- In **1991**, at a UN meeting, a detailed set of principles called **Paris Principles** were developed which became the foundation for the establishment and operation of national human rights institutions.
- In pursuant to these principles, **India has enacted the Protection of Human Rights Act (PHRA), 1993**.
- Under the act, **NHRC was established on 12 October, 1993 and amended in 2006**.
- The act also authorized State Governments to establish **State Human Right Commission (SHRC)**.
- The NHRC is an **embodiment of India's concern for the promotion and protection of human rights**.
- **Section 2(1)(d) of the PHRA** defines Human Rights as the *rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India*.

Functions:

- NHRC **investigates grievances** regarding the violation of human rights either **suo moto or after receiving a petition**.
- It has the power to **interfere in any judicial**

proceedings involving any allegation of **violation of human rights**.

- It can **visit any jail or any other institution** under the control of the State Government to see the living conditions of the inmates and make recommendations thereon.
- It can **review the safeguards provided under the constitution** or any law for the protection of human rights and recommend appropriate remedial measures.
- It can recommend to both the central and state governments to take **suitable steps to prevent the violation of Human Rights**.
- NHRC undertakes and **promotes research** in the field of human rights.
- NHRC works to **spread human rights literacy** among various sections of society and promote awareness of the safeguards available for the protection of these rights.

Powers:

- It has the **powers of a civil court** and can grant interim relief.
- **While trying a suit** under the Code of Civil Procedure, 1908, it had **powers of**
 - summoning and enforcing the attendance of witnesses and examining them on oath;
 - discovery and production of any document;
 - receiving evidence on affidavits;
 - requisitioning any public record or copy thereof from any court or office;
- It also has the authority to **recommend payment of compensation** for damages.
- It **submits its annual report** to the President of India who causes it to be laid before each House of Parliament.

Limitations of working of NHRC and solutions:

- Its recommendations **are not binding**.
- It cannot penalise authorities who do not implement its orders.
- NHRC jurisdiction **does not cover human right violations by private parties**.
- NHRC powers related to violations of human rights by the armed forces have been largely restricted.
- A large number of grievances go unaddressed because **NHRC cannot investigate the complaint registered after one year of incident**.
- It has been termed as **'India's teasing illusion'** by former Attorney-General of India, Soli Sorabjee due to its incapacity to render any practical relief to the aggrieved party.
- Many times NHRC is viewed as **post-retirement destination for judges** and bureaucrats with political affiliation.
- Its working is hampered by **inadequacy of funds**.

Solutions:

- NHRC efficacy can be enhanced by government if **commission decisions are made enforceable**.
- A **complete revamping of NHRC** is required to make it more effective and truly a watchdog of human rights violations in the country.
- There is a need to change in composition of commission by **including members from civil society and activists**.
- NHRC needs to develop an **independent cadre of staff** with appropriate experience.