

All India Network of NGOs and Individuals working with National and State Human Rights Institutions (AiNNI)



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The All India Network of Individuals and NGOs working with National and State Human Rights Institutions [AiNNI] expresses concern over the visit of NCPCR Chairperson in Thanjavur to investigate the death of a minor girl staying in the boarding and studying in Sacred Heart Higher Secondary School, Michaelpatti, Thanjavur District

(Madurai, 31 January 2022)

The All India Network of NGOs and Individuals working with the National and State Human Rights Institutions (AiNNI) expresses deep concern over the visit of the Hon'ble Chairperson of the National Commission for Protection of Child Rights (NCPCR) to Thanjavur District, Tamil Nadu to inquire into the death of a minor student staying in the boarding and studying in Sacred Heart Higher Secondary School, Micaelpatti, Thanjavur District.

AiNNI as a network working towards strengthening of national and state human rights institutions(N/SHRIs), has always advocated towards the fullest use of statutory powers and independence of such institutions, without any political interference. AiNNI has always advocated for Paris Principles – the international standards that govern national human rights institutions, applies to not only the National Human Rights Commission of India, but also to all N/SHRIs, including the National Commission for Protection of Child Rights. But the present intervention by NCPCR in Thanjavur, is completely contrary to the Commission for Protection of Child Rights Act, 2005 (CPCR) and the Paris Principles.

While we acknowledge and express our gratitude over the immediate action and intervention by the NCPCR into an alleged child rights violation, we also express our deepest concern over the Commission's selective approach and overzealousness into this sensitive incident. While there are numerous incidents of violations of child rights, many of them includes grave and systemic violations, the NCPCR's selective approach into this incident, causes doubts over its intention.

Scheduled visit against Commission for Protection of Child Rights Act, 2005

At the outset, AiNNI wishes to point out that there has been only a press release dated 28th Jan, 2022 mentioning an inquiry, followed by a letter of the same date addressed to the authorities with the tour programme of the Hon'ble Chairperson. There is also a letter dated 29th Jan, 2022 from the Hon'ble Commission giving the more detailed tour programme of the inquiry.

The Commission for Protection of Child Rights Act, 2005 (CPCR, 2005) under which is constituted the NCPCR under Section 3, contemplates the constitution of the NCPCR. Section 13 contemplates the functions and powers of the Commission (NCPCR). Section 13 (a) reads, “ examine and review the safeguards provided by or under any law for the time being in force for the protection of child rights and recommend measure for their effective implementation”; and Sec 13(j) deals with “inquiries into complaints and take suo moto notice of matters relating to: (i) deprivation and violation of child rights; (ii) non-implementation of laws providing for protection and development of children; (iii) non- compliance of policy decisions, guidelines or instructions aimed at mitigating hardships to and ensuring welfare of the children and to provide relief to such children”.

Nowhere in the communications that have so far been made public either to the authorities of the government of Tamil Nadu or to the police authorities by the NCPCR, the district level authorities, the education department officials, the authorities of the Sacred Heart School or the public at large, has the Commission anywhere stated whether in this case it is performing its functions under Section 13 (a) or under Section 13 (j). If an enquiry under Section 13(j) was what was contemplated, the powers relating to such inquiries are clearly mentioned in Section 14 wherein: summoning and enforcing the attendance of persons; discovery and production of documents; receiving evidence on affidavits; requisitioning any public records or copy thereof from any court or office etc. have been contemplated. In so far, no summons has been issued either to the officials or to any members of the public or to the school authorities or even, in this case, to the family of the minor victim girl. This could not have been envisaged as an enquiry under Section 13 (j).

AiNNI has come to know from reliable sources that the NCPCR Chairperson during the ‘inquiry’ this morning had demanded for the case records related to this enquiry from the investigating officers, while the matter was still sub-judice, until the order of the High Court was passed post 11 AM today. Thus, the NCPCR has unfortunately exhibited its pitiful ignorance of the provisions of law that govern ‘inquiries’ which were not followed in this case.

Thus, the provisions of the Section 14(1) of the CPCR Act, 2005, which is “summoning and enforcing the attendance of any person and examining him on oath” have not been followed and hence this visit cannot be treated as an inquiry by the NCPCR as it is **completely contrary to its founding statute**.

AiNNI further strongly takes exception to this enquiry by the NCPCR since the Tamil Nadu State Commission for the Protection of Child Rights (SCPCR), had intervened in this case within its powers immediately after the same was brought to its notice and had sought reports from the Superintendent of Police, Thanjavur and the District Child Protection Officer, Thanjavur. AiNNI is reliably informed that Superintendent of Police, Thanjavur and the

District Child Protection Officer, Thanjavur, has provided its report to the SCPCR, Tamil Nadu. Thus, it is clear that the Tamil Nadu SCPCR has already initiated an enquiry and therefore any inquiry by the NCPCR is clearly barred under Section 13 (2) of the CPCR, Act 2005.

AiNNI is pained to note that the NCPCR which is a National Human Rights Institution (NHRI) as defined by the United Nations, has to be compliant with the Paris Principles. This means it has to be independent from the government that has constituted it. NHRIs are unique institutions and they are not under the direct authority of the executive, legislature and judiciary. However, they have to follow their mandate and competence, in this case the CPCR Act, 2005, according to which they need to maintain autonomy from the government, maintain independence guaranteed by the CPCR Act, 2005, maintain pluralism, adequate resources and adequate powers of the investigation. In this case unfortunately, AiNNI is informed that the Chairperson of the NCPCR met with functionaries of the Bharatiya Janata Party (BJP) late in the night at Hotel Sangham, Thanjavur where he was residing that night (30th January, 2022). AiNNI considers that the NCPCR which was once led by none other than Dr. Shantha Sinha, a child rights activist and an academician of international repute, has now lowered itself to function outside the parameters of law that governs it and adopt means of functioning leading one to suspect its political leanings.

AiNNI is further pained to see this unilateral effort of the NCPCR in not associating in any manner whatsoever with the Tamil Nadu SCPCR in this case. AiNNI is reliably informed that though several classmates of the deceased child, her teachers, parents and the public were gathered none of them were inquired by the Chair of NCPCR. Why then such a public drama by an NHRI?

AiNNI therefore urges the NCPCR not to provide any further opportunity for any communal or anti-secular forces to take advantage of the actions and interventions of the Commission, and to handle the matter sensitively and as per powers provided under the Commission for Protection of Child Rights Act, 2005 and the Paris Principles.



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