



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

NATIONAL SECRETARIAT

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To

The Hon'ble Chief Minister,
Govt. of Tamil Nadu,
Fort St. George,
Secretariate,
Chennai – 600 009.

Dear and Respected Mr. Thalapathi M.K. Stalin,

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

- 1. All India Network of NGOs and Individuals Working with National and State Human Rights Institutions (AiNNI)** is a forum of individuals and organisations from across the country to monitor and strengthen the functioning of human rights institutions like the National Human Rights Commission, National Commission for Women, National Commission for Minorities, National Commission for Protection of Child Rights, National Commission for Scheduled Castes, National Commission for Scheduled Tribes, Central Information Commission, Commissioner for Persons with Disabilities, National Commission on Safai Karamcharis and their state counterparts for their compliance to Paris Principles and their founding law and to activate them to better equip themselves for the protection and promotion of human rights. AiNNI is also a member of the Asian Network of NGO's working with National Human Rights Institutions (ANNI), and ANNI is known to work in close collaboration with the

Asian Pacific Forum of NHRIs (APF) of which National Human Rights Commission of India (NHRC) is a founding member since 1998. AiNNI is the only national network engaging with N/SHRIs in India and is mandated to engage them through trainings, consultations, studies and advocacy for adherence to the Paris Principles. AiNNI undertakes national level studies, advocates with the law makers, engages with judiciary and the International Coordinating Committee on NHRI's (ICC) and in collaboration with ANNI strives for the establishment of a South-Asian and Asian regional human rights mechanism. (Refer www.ainni.in)

2. AiNNi would first of all like to whole heartedly to congratulate your good self and your Government on the establishment of the Tamil Nadu State Commission for the SC/ ST through the passing of the Tamil Nadu State Commission for the Scheduled Caste and Scheduled Tribe Act 2021. We are happy that it will be led and Chaired by a former High Court Judge, Justice Mr. Shivakumar with the Mr. Punitha Pandiyan, the editor of Dalit Murasu as its Deputy Chairman, along with five other respected members. The establishment of this body has to primarily ensure that the teaching of 'equality education' is immediately started in all our schools so that discrimination of every form including on the basis of gender, caste, religion, class, colour, sexual orientation and disability are completely done away with through a program of compulsory education in all our schools.
3. AiNNI wishes to recall that Tamil Nadu under your leadership has presently the following State Human Rights Institutions (SHRIs), namely, the Tamil Nadu State Human Rights Commission, the Tamil Nadu State Commission for Women, the Tamil Nadu State Commission for Minorities, the Tamil Nadu State Commission for Protection of Child Rights, the Tamil Nadu State Commission for Schedule Castes and Scheduled Tribes and a State Commissioner for Persons with Disabilities. Of the above mentioned six SHRIs some have been constituted under Central Legislations that have provided for both National and State Commissions. For example, the Protection of Human Rights Act 1993

provides for the constitution of the National Human rights Commission under Sec. 3 and the Constitution of State Human Rights Commissions under Sec. 21. Similarly, the Commissions for the Protection of Child Rights Act 2005, provides for the constitution of a National Commission for Protection of Child Rights under Sec. 3 and the Constitution of State Commissions for the Protection of Child Rights under Sec. 17. The Rights of Persons with the Disabilities Act 2016, provides for the appointment of a Chief Commissioner and Commissioners at the National level under sec. 74 and the appointment of State commissioners in states assisted by an Advisory Committee under Sec 79. Thus, three SHRIs, namely, the Tamil Nadu state Human Rights Commission, the Tamil Nadu State Commission for Protection of Child Rights and the State Commissioner for Persons with Disabilities are constituted under independent central legislations. Whileso, the remaining three SHRIs, namely, the Tamil Nadu State Commission for Women, the Tamil Nadu State Commission for Minorities, the Tamil Nadu State Commission for Scheduled Castes and Schedule Tribes are constituted under very specific state legislations.

4. Thus, each SHRI in the state of Tamil Nadu are part and parcel of the larger family of National Human Rights Institutions (NHRIs) in our country. The NHRIs in our country comprise the following. They are the National Human Rights Commission (NHRC), the National Commission for Women (NCW), the National Commission for Minorities (NCM), the National Commission for Scheduled Castes (NCSC), the National Commission for Scheduled Tribes (NCST), the National Commission for Protection of Child Rights (NCPCR), the National Commission for Safai Karamcharies (NCSK) and the Central Commissioner for Persons with Disabilities (NC – PwD). All these institutions are Governed by what are known as the United Nations Guidelines for NHRIs popularly known as the Paris Principles of 1993.

NHRIs and SHRIs are therefore required to:

- **Protect** human rights, including by receiving, investigating and resolving complaints, mediating conflicts and monitoring activities; and

- **Promote** human rights, through education, outreach, the media, publications, training and capacity-building, as well as advising and assisting Governments.

The Paris Principles sets out what a fully functioning N/SHRI is and identify six main criteria that these institutions should meet to be successful:

- **Mandate and Competence:** a broad mandate based on universal human rights standards;
- **Autonomy from Government;**
- **Independence** guaranteed by statute or Constitution;
- **Pluralism**, including through membership and/ or effective cooperation;
- **Adequate Resources;**
- **Adequate powers of investigation**

The issue of autonomy is intrinsically linked to independence and is perhaps the most important of the principles. It is however also arguably the most difficult and controversial. In the end, an N/SHRI is a state-sponsored body in the sense that its existence depends on an act of the State and on state funding. Therefore an N/SHRI is accountable to elected representatives or to the government in terms of reporting on its performance, at the same time as being autonomous and independent. Accountability to the State is generally achieved through annual reports and other types of reports filed with Ministers or, preferably, directly to Parliament.

5. In general, while the Government of Tamil Nadu has fully constituted six Commissions namely, the Tamil Nadu State Human Rights Commission (TN - SHRC), the Tamil Nadu State Commission for Protection of Child Rights (TN- SCPCR), the Tamil Nadu State Commission for Minorities (TN – SCM) , the Tamil Nadu State Commission for Women (TN- SCW), the Tamil Nadu State Commission for Scheduled Castes and Scheduled Tribes (TN-SCSC/ST), it is the Tamil Nadu State Human Rights Commission which is observing its 25th

year of being constituted from 17.04.2021 to 17.04.2022. After Justice Ms. T. Meena Kumari completed her tenure in November 2019, Justice Mr. S. Baskaran was appointed and assumed office on 31st Dec. 2020. The TN-SCW which was constituted in the year 1993 became a statutory commission through the Tamil Nadu State Commission for Women Act 2008 and has since, been constituted under Sec. 4. Dr. Tmt. Kannagi Pakiyanathan IAS (Retd) served as the Chairperson for the Commission for Women along with her members in Dec. 2017. On 16th Feb. 2021 Tmt. Gowri Asokan was appointed as the subsequent Chairperson to Dr. Tmt Kannagi Pakiyanathan IAS (Retd.) along with her members.

The TN – SCM, initially constituted in the year 1990 was made a statutory commission after the enactment of the Tamil Nadu State Minority Commission Act, 2010 and thereafter constituted under Sec. 3. In the year 2019, the TN – SCM was Chaired and led by one Mr. T. John Mahendran along with his members and they had a term of office till the year 2022. The TN – SCPCR was first constituted in the year 2013 with Tmt. Saraswathi Rangasamy as its Chairperson. Thereafter, a new State Commission was constituted headed by Dr. Tmt. Nirmala, I.A.S. (Retd.) in May 2017 and subsequently after her completion of office after three years Tmt. Saraswathi Rangasamy was once again appointed as its Chairperson with her members on 18th Jan. 2021 and therefore also had tenure to last till 18.01.2024.

6. **Tenures of Commissions:** All the statutory SHRIs referred supra functioning in the state of Tamil Nadu are duly constituted under their respective Central or State legislations and thereby have a fixed tenure of three years. The respective legislations, under which the Chairpersons / Vice Chairperson / Deputy Chairperson as well as the members are appointed and hold office for a fixed tenure of usually three years and cannot be removed contrary to the purview of the provisions of the respective law dealing with their removal in each institution. All NHRIs and therefore State Human Rights Institutions are governed by the

Paris principles 1993 and have to necessarily enjoy functional autonomy from the Govt. and independence guaranteed by their respective statutes.

7. Whileso, AiNNI is greatly disappointed that your Government that gives extreme importance to our Constitutional mandates and principles of democracy, federalism and continues to not only engage critically but also lead other Governments for the autonomy of states with in the Union of India, has, as can be adequately demonstrated, one by one, systematically and in a planned manner, tried to illegally interfere with the autonomy and independence of not one, not two but so far three SHRIs in Tamil Nadu. Namely, the Tamil Nadu State Commission for Minorities, the Tamil Nadu State Commission for Women and the Tamil Nadu State Commission for the Protection of the Child Rights. At the outset and without any hesitation what so ever, AiNNI wishes to categorically state that AiNNI has no love lost for the both the Chairpersons and most of the former serving members, excepting perhaps only for one member Dr. Ramaraj, a Member in the TN SCPCR. However, in a Union of States, governed by an intermix of Central and State legislations, it is important to respect not only the UN Guidelines for the establishment of National Human Rights Institutions (Paris Principles 1993) but also our domestic laws. When the laws prescribe tenures and provide for specific conditions for the removal of the Chairpersons and members, it is against the principle of autonomy and independence of such State Human Rights Institutions to remove them through a process now termed 'reconstitution'.
8. Does your government which has just now reconstituted the Tamil Nadu State Commission for Women, the Tamil Nadu State Commission for Minorities and the Tamil Nadu State Commission for the Protection of Child Rights also plan to reconstitute the Tamil Nadu State Human Rights Commission, just because Justice S. Baskaran was appointed by the previous Government in which appointment committee your good self was a member but had chosen not to attend the meeting when it selected Justice S. Baskaran? Does your Government also plan to remove Mr. D. Jeyachandran and Mr. Mohan Doss,

IAS (Retd.) – both presently serving active members of the TN – SHRC, only because they were also appointed by the earlier AIADMK Govt.?

9. All the SHRIs Tamil Nadu urgently need very special interventions which is more important than just reconstituting them. Removing of one Tmt Gowri Asokan who had a term of two years and then appointing one Tmt. A. S. Kumari cannot make any change in the running of the Tamil Nadu State Commission for Women. Appointing Mr. Peter Alphonse for whom, by the way, I have very high regards for his capacities, caliber and competence, instead of Mr. John Mahendran cannot make any significant difference in the functioning of the TN – SCM; similarly removing Tmt. Saraswathi Rangasamy and her team of members who had two years more of their tenure to complete cannot bring any significant change in the functioning of the TN – SCPCR. On the contrary, each of these SHRIs in the state urgently require the Government to attend to the following:

- a. Ensure their autonomy and independence in the appointment and removal process; in their organizational structure; in the allotment and management of finances; in the selection and appointments of personnel and ensuring that principles of pluralism diversity in their membership and staff composition was adhered to.
- b. Each of the SHRIs urgently required clear rules to govern their selection and appointment processes, which should include an immediate audit of the minimum staff required for an effective functioning of each SHRI; immediate ordering the creation of these staff positions to each SHRI based on the audit; regular publication of vacancies in Members and assessment of applicants, maximizing the number of potential candidates from a wide range of social and professional groups and ultimately selecting members to the SHRIs based on certain clear publicized indicators of qualifications being looked for.

- c. Guarantee that the Chairpersons and the members of each SHRI are not cherry picked supporters or members of the ruling Government, but persons of competence who serve in their full-time capacity and are paid professional scales for the services rendered by each of them.
- d. Each of these SHRIs are staffed with a full time Member Secretary, who functions as the Chief Executive of the institution. In the TN – SCPCR even today there is no full time, independent Member Secretary of an IAS rank and instead a joint Director of the Department of Social Defense holds charge now, for several years.
- e. No Chair Person, no Member, no Member Secretary, no staff member of any of the SHRIs in Tamil Nadu have ever undergone a compulsory induction program, in any independent training institution, such as the State Judicial Academy or the Anna Institute of management or the Madras Institute of Development Studies or any other reputed institute teaching Social work located in Chennai or an institution competent to train them exclusively on Human Rights. Even existing SHRIs such as the TN – SHRC, today suffers from more than 30 vacancies. The other commissions such as the TN – SCPCR, the TN – SCM, the TN – SCW and the newly constituted TN-SC SC&ST all suffer from severe shortage of professional staff / personnel to even handle the complaints that they receive. Not even one of the Tamil Nadu SHRIs have an official law officer to advise them nor a panel of lawyers at least from the State Legal service Authority to guide those who visit the commission. But every District Superintendent of Police has access to a full time legal officer.
- f. The Commission members in the most SHRIs do not have an exclusive table and chair to sit and work from, leave alone a staff to assist them. How will they be able to fulfill their responsibilities chartered out under their respective legislations.

- g. How can a TN – SCPCR which is authorized to “monitor” the functioning of the POCSO Act and oversee and “monitor” the functioning of the Right to Education Act in 2009 without a single member of the SCPCR functioning full time and without the services of a single designated staff(s) to work on each of these two legislations, namely, POCSO and RTE. TN – SCPCR monitors all the institutions which are under the Director of Social Defense but the irony is that the same Director serves as the Secretary of the SCPCR!
 - h. The members both of the TN - SCPCR and the TN SCW are paid Rs 1,000/- per sitting, with a maximum of 12 sittings in a year. What respect will a District Education Officer or `Chief Education Officer or a Joint Director of Education or any Director of the school education department have on him/her, when such is the caliber of persons appointed and the status of their compensation paid in their respective institutions?
 - i. Non-of these institutions, including the SHRC which has existed for 25 years, makes pro—active disclosures as contemplated under Sec. 4 the Right to information Act through tier own website. In a state which prides itself, and that too genuinely, of the power of the Tamil language, not a single SHRI website where they have any information for the public to access in Tamil.
- 10.I know very well that there are very important priorities for your Govt. But a series of custodial deaths, torture, extra judicial killing, all forms of gruesome violations against women, children, members of the SC, ST and De-Notified Tribal communities as well as sexual minorities and persons with disabilities urgently calls for not replacing the AIADMK appointed Chairpersons and members, by your Government’s new Chairpersons and members. What needs to be urgently adhered to is following other important changes in the methods of selection of Members, advertising the vacancies, deciding on indicators of their required skills, experience and competence and ensuring the best talent for respecting the Paris Principles and maintaining their autonomy and the independence are selected.

11. This therefore is a letter addressed to your good self, so that urgent, qualitative interventions will follow. This needs persons of competence to be invited for discussing such changes to be undertaken, some of which alone are being indicated above. The tasks are very urgent. The time is running out and replacing "A" by "B" alone or "C" by "D" alone cannot ensure the realization of your Government's assurances given to the electorate less than a year ago. The purpose therefore of this memorandum is not to criticize your the Government, but on the contrary to offer critical inputs, so that our Government can genuinely stand uniquely high in the midst of the other states among the union of the state, ensuring that the best competent talent, in the best atmosphere, with all resources including, adequately trained personnel are placed to serve in the protection and promotion of the rights of different sections of the Tamil society.
12. As of today, the State Human Rights Commission functions under the Home Department; the Tamil Nadu State Commission for Women and Tamil Nadu State Commission for Protection of Child Rights both function under the Social Welfare and Women Empowerment Department; the Tamil Nadu State Commission for Minorities functions under the Backward Class, Most Backward Class and Minority Welfare Department of the Government; the Special Commissioner for Persons with Disabilities is the Head of the Department for the Welfare of the Differently Aabled Persons; the Tamil Nadu State Commission for the Scheduled Caste and Scheduled Tribes functions under the Adi Dravida and Tribale Welfare Department of the Government. Thus, each SHRI directly comes under a department of the government, denying its complete autonomy and independence. What needs therefore to be done, is for the Government of Tamil Nadu to display publicly. Its respect for the rights of women, sexual minorities, Scheduled Castes, Scheduled Tribes, Children, minorities, persons with disabilities and all other sections by bringing all State Human Rights Institutions directly under the control of the Chief Secretary of the State and thus under the close supervision of the Hon'ble Chief Minister. These are changes

of far reaching consequences for promoting better access to justice and making the concept of social justice, gender justice, easily accessible to the common persons. These alone will be a unique contribution of Tamil Nadu among the Union of States by your prestigious Government. This, AiNNI believes, cannot be achieved by the courts of our country, because most of our serving Judges have not had sufficient exposures and opportunities to appreciate the strength of such N/SHRIs. The ball therefore lies only in your court, respected Hon'ble Chief Minister.

AiNNI will always be willing to accompany your Government in this tough journeying process at any time with all resources that we possess for the realization of the above goals, including training.

Thanking you and assuring your goodself of our fullest co-operation always,



(Henri Tiphagne)

National Working Secretary – AiNNI

Enclosure : Resource material on N/SHRIs in India.

Copy to:

- The Home Secretary, Govt. of Tamil Nadu, Secretariate, Chennai – 600 009.
- The Principal Secretary to Government, Adi Dravidar and Tribal Welfare Department, Govt. of Tamil Nadu, Chennai
- The Principal Secretary to Government, BC, MBC & Minorities Welfare Department, Govt. of Tamil Nadu, Chennai
- The Additional Chief Secretary to Government, Social Welfare and Women Empowerment Department, Govt. of Tamil Nadu, Chennai
- The Secretary to Government, Welfare of Differently Abled Persons, Govt. of Tamil Nadu, Chennai