

Assistant Registrar(LAW)  
Fax No.: 011-2465-1332  
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Case No. 778/13/23/2010-AF

NATIONAL HUMAN RIGHTS COMMISSION  
(LAW DIVISION)

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MANAV ADHIKAR BHAWAN, BLOCK-C  
G.P.O. COMPLEX,  
INA, NEW DELHI 110023

2 of 2

Dated 19/06/2015

Case No. 778/13/23/2010-AF  
To

2 JUL 2015

THE SECRETARY  
MINISTRY OF DEFENCE, GOVT. OF INDIA,  
SOUTH BLOCK, NEW DELHI

Sub : Complaint from

SUHAS CHAKMA, DIRECTOR  
NATIONAL CAMPAIGN FOR PREVENTION OF  
TORTURE, C-3/441-C, JANAKPURI,  
WEST DELHI DELHI 110058

Sir/Madam,

I am directed to say that the matter was considered by the Commission on 05/06/2015 and the Commission has directed as follows.

*These proceedings shall be read in continuation of the earlier proceedings of the Commission dated 9.4.2014.*

*On 9.4.2014, the Commission observed and ordered:-*

*"This indicates that both the accused persons have been punished thus it is a confirmed case of violation of human rights. Accordingly, it is directed that a notice u/s 18 of the Protection of Human Rights Act, 1993 be issued to Secretary, Government of India, Ministry of Defence, Sena Bhawan, New Delhi to show cause as to why the victim be not recommended interim relief.*

*Response be submitted within six weeks."*

*Pursuant to the directions of the Commission, Director (AG-1), Government of India, Ministry of Defence, New Delhi on 6.6.2014 submitted that both the accused personnel were not performing any official duty at the time of commission of offence and had committed the offence purely in capacity of being civilians and they have been convicted by the court. The court at the time of pronouncement of judgement had ordered that out of the fine of Rs.40,000/- imposed on the accused a sum of Rs.35,000/- be paid to the victim. In view of the above, no compensation is required to be paid by the Ministry of Defence.*

*It is worth mentioning that it is a case of rape of a 19 year old girl Kumari Sunita by personnel of Rajputana Rifles in Pune and the court had convicted both the accused persons. These accused personnel had committed rape in a pit of military ground at Pune.*

*Here it is pertinent to mention that the Session Judge while convicting the accused persons had ordered that the victim be provided Rs.35,000/- out of the amount of fine of Rs.40,000/- imposed on the accused*

persons.

The Commission is of the view that the recommendation made by NHRC is different from the amount awarded by the court at the conclusion of the trial whereas the amount recommended by the Commission is for the violation of human rights of a victim by a public servant.

From the perusal of the judgement, it is clear that the accused persons were in military dress and attempted to forcibly rape her. Thus, the submission made by Ministry of Defence that the accused personnel were not performing any official duty at the time of commission of an offence, cannot be believed. It is a clear case of sexual abuse by two army officials in the cantonment area which is a clear case of violation of human rights. However, the amount awarded by the court appears to the Commission inappropriate and the Central Government through Ministry of Defence, Government of India is liable to pay a compensation under 18 (a) (i) of the Protection of Human Rights Act 1993.

Thus, the Commission recommends that a sum of Rs. 50,000/- (Rupees fifty thousand only) be paid to the victim *Ms. Sunita* by the Central Government that is through Ministry of Defence.

Secretary, Ministry of Defence, Government of India, New Delhi be asked to submit compliance report along with proof of payment which should be received in the Commission within six weeks.

It is therefore, requested that the compliance report in the matter be sent to the Commission latest by 28/07/2015, so that the same could be placed before the Commission.

Yours faithfully,

  
ASSISTANT REGISTRAR (LAW)

CC To,

NNNN  
NNNN

778/13/23/10

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SUHAS CHAKMA, DIRECTOR  
NATIONAL CAMPAIGN FOR PREVENTION OF  
TORTURE, C-3/441-C, JANAKPURI,  
WEST DELHI, DELHI 110058

# National Human Rights Commission

New Delhi, India

Case Details of File Number: 778/13/23/2010-AF

**Diary Number** 41858  
**Name of the Complainant** SUHAS CHAKMA, DIRECTOR  
**Address** NATIONAL CAMPAIGN FOR PREVENTION OF TORTURE, C-3/441-C, JANAKPURI,  
 WEST DELHI, DELHI  
**Name of the Victim** A 19 YEAR OLD GIRL  
**Address** NOT AVAILABLE,  
 PUNE, MAHARASHTRA  
**Place of incident** SWARAJ GARDEN  
 PUNE, MAHARASHTRA  
**Date of Incident** 4/7/2010

**Direction issued by the Commission**  
 These proceedings shall be read in continuation of the earlier proceedings of the Commission dated 17.6.2013. On 17.6.2013, the Commission observed and ordered. - "Secretary, Ministry of Defence, Government of India, New Delhi be asked to submit report of Army Headquarters which should be received in the Commission within six weeks." Pursuant to the directions of the Commission, report of Army HQrs. has not been received. From the perusal of the papers available on record in this case a 19 years old girl Km. Sunita was raped by personnel of Rajputana Rifles in Pune. Under Secretary to the Government of India, Ministry of Defence on 14.2.2012 submitted that on 9.4.2010 both the individuals against whom the FIR was lodged were handed over to the police and they were produced in the court and sent to jail. The outcome of the case along with latest status of the matter would be intimated to NHRC as and when the 2 same is received from Army HQrs. It is pertinent to mention that a case No. 639/10 State of Maharashtra vs. Samunder and Rajnish Kumar Suresh Chandra Kumar was pending in the Court of Addl. Session Judge, Pune and on 6.5.2013 both the accused were convicted and sentenced to suffer rigorous imprisonment for 10 years and to pay fine of Rs. 15,000/-. In case the fine is not deposited, they will have to suffer further rigorous imprisonment for one year. Both the accused were also convicted u/s 506(ii) r/w 34 IPC and sentence to suffer rigorous imprisonment for five years and fine of Rs. 5,000/- each in non-payment of fine they will further undergo rigorous imprisonment of 6 months. This indicates that both the accused persons have been punished thus it is a confirmed case of violation of human rights. Accordingly, it is directed that a notice u/s 18 of the Protection of Human Rights Act, 1993 be issued to Secretary, Government of India, Ministry of Defence, Sena Bhawan, New Delhi to show cause as to why the victim be not recommended interim relief. Response be submitted within six weeks. . . . .

**Action Taken**

Status on 5/26/2014

**Note:** For further details kindly contact National Human Rights Commission, Manav Adhikar Bhawan Block-C, GPO Complex, INA, New Delhi - 110023

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नोट: अन्य जानकारी हेतु कृपया संपर्क करे राष्ट्रीय मानव अधिकार आयोग, मानव अधिकार भवन, ब्लॉक-सी, जी.पी.ओ. कम्प्लेक्स, आई.एन.ए., नई दिल्ली - 110023,

फोन नं. 24651330 फैक्स नं. 24651329 ई-मेल : covdnhrc[at]nic[dot]in, ionhrc[at]nic[dot]in

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