

NATIONAL HUMAN RIGHTS COMMISSION
(LAW DIVISION)
MANAV ADHIKAR BHAWAN, BLOCK-C, G.P.O. COMPLEX,
INA, NEW DELHI- 110023

Dated 07/10/2013

Case No. 626/25/15/09-10-PF

To,

TEJANG CHAKMA, COORDINATOR
ASIAN CENTRE FOR HUMAN RIGHTS, C-3/441-C,
2ND FLOOR, JANAHPURI,
WEST DELHI, DELHI.

9 OCT 2013

Sir/Madam,

With reference to your complaint dated 24/11/2009, I am directed to say that the matter was considered by the Commission on 30/09/2013. The Commission has made the following directions.

These proceedings shall be read in continuation of the Commission's earlier proceedings dated 11.06.2013 when it asked the Secretary, Ministry of Home Affairs to send the proof of payment of Rs.20,000/- as relief to Shri Anwar Gain.

A letter dated 30.08.2013 has been received from the Ministry of Home Affairs, Government of India, revealing that as recommended by the Commission, Rs.20,000/- as relief has been paid to Shri Anwar Gain. The photocopies of the receipt and demand draft are also annexed.

Since the relief, as recommended by the Commission has been paid, the case is closed.

Copy to IO and complainant.

This is for your information.

Yours faithfully,

ASSISTANT REGISTRAR(LAW)

Assistant Registrar(LAW)
Tel. No.: 011-2338 5368
Fax No.: 011-2338 6521
Telegraphic Add.: "HUMANRIGHTS"
Home Page : <http://nhrc.nic.in>

Case No. 626/25/15/09-10-PF
NATIONAL HUMAN RIGHTS COMMISSION
(LAW DIVISION)
* * *
FARIDKOT HOUSE
COPERNICUS MARG, NEW DELHI - 110 001

Dated 18/01/2013

To
THE SECRETARY - Home
MINISTRY OF HOME AFFAIRS, GOVERNMENT
OF INDIA, NORTH BLOCK, NEW DELHI

29 JAN 2013

Sub : Complaint from

TEJANG CHAKMA, COORDINATOR
ASIAN CENTRE FOR HUMAN RIGHTS, C-3/441-C,
2ND FLOOR, JANAKPURI,
WEST DELHI DELHI 110058.

Sir/Madam,

I am directed to say that the matter was considered by the Commission on 14/01/2013 and the Commission has directed as follows.

Shri Tejang Chakma, Complaints Coordinator, Asian Centre for Human Rights, Janakpuri, New Delhi, in his complaint dated 24.11.2009, alleged that one Anwar Gain, son of late Elahi Baksh Gain was arrested by the BSF personnel on charges of smuggling cattle. He was kept in the custody of the BSF on 3.9.2009 from 3:00 p.m. to 7:00 p.m. and was tortured. It was also alleged that the BSF personnel released him after taking Rs. 10,000/- from his brother.

On consideration of report dated 14.1.2010 from the Commandant (OPS) C, New Delhi and another report dated 18.7.2012 from the Additional Superintendent of Police, Barasat North 24-Parganas, West Bengal, the Commission, vide its proceedings dated 14.8.2012 issued a notice to the Secretary, Government of India, Ministry of Home Affairs, New Delhi to show cause as to why appropriate compensation be not awarded to Shri Anwar Gain on the ground that filing of a charge-sheet by the police against the personnel of BSF prima-facie showed that the arrest of Shri Anwar Gain by BSF was not justified and it amounted to violation of his human rights.

In response, a communication dated 19.11.2012 has been received from the Deputy Secretary to the Government of India, Ministry of Home Affairs, HR Division, New Delhi. It has been submitted that, as per provisions of Section 19 of the Protection of Human Rights Act, 1993, it is expected of the Commission to take an appropriate decision on the basis of available reports and no reply to the show cause notice is required to be furnished by the Ministry. Accordingly, a request has been made that an appropriate action may be taken on the basis of factual reports furnished by BSF/State Government.

The Ministry of Home affairs should be aware that nothing in the Protection of Human Rights Act 1993 requires the Commission to issue a notice to show cause before it makes recommendations for relief. It does so only to give the institution concerned the opportunity to state its case, if it believes that relief would not be justified. When the Commission finds that the arguments put forward are valid, it does not recommend relief.

It would appear from the response received from the Ministry of Home Affairs that it does not wish to be afforded this opportunity. Therefore, for the reasons recorded in the Commission's proceedings of the

14th August 2012, the Commission recommends that the Ministry of Home Affairs pay Rs.20,000/- as relief to Shri Anwar Gain.

Proof of payment would be expected by the 12th March, 2013.

It is therefore, requested that the compliance report in the matter be sent to the Commission latest by 12/03/2013, so that the same could be placed before the Commission.

Yours faithfully,

ASSISTANT REGISTRAR (LAW)

CC To.

TEJANG CHAKMA, COORDINATOR
ASIAN CENTRE FOR HUMAN RIGHTS, C-3/441-C,
2ND FLOOR, JANAKPURI,
WEST DELHI, DELHI. 110058