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Case No. 203/3/15/08-09-AF
NATIONAL HUMAN RIGHTS COMMISSION
(LAW DIVISION)

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FARIDKOT HOUSE
COPERNICUS MARG, NEW DELHI - 110 001

Dated 04-03-2010

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

4 MAR 2010

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 02-03-2010 and the Commission has directed as follows.

Reference detailed proceedings dated 16.7.09. Shri Bhadrakanta Baruah was suspected of having links with ULFA and his house was searched by five army personnel of Maibela Base Army Camp, Assam, on 31.1.09 at about 8:30 pm. Though nothing incriminating was recovered from his house, he was assaulted by the Army personnel and was taken to the camp where he was again questioned and beaten up. He was even allegedly administered electric shocks and at about 1:30 am he was handed over to the police station at Sonari.

The Commission called for a report from the Secretary, Ministry of Defence, Govt. of India, as well as Supdt. of Police, Sivsagar, Assam. Only the S.P. Sivsagar submitted his report dated 27.4.09. This report said that Army Major Ribesh Singh of 871 Field Regiment, Camp-Maibela, lodged an FIR at Sonari police station on 1.02.09 at 1245 hrs to the effect that Shri Bhadrakanta Baruah and Shri Ghana Neog, both of village Tokolimara, were the linkmen of ULFA organization. He also handed over these two persons to the police. Both the accused persons were got medically examined and the doctor opined that both of these persons had received simple injuries caused by blunt object. They were thoroughly interrogated by the police. Enquiries about their antecedents were also made from their village but nothing incriminating was found against them and they were released from the police custody as per the orders of SDPO, Sonari, on 1.2.2009. This report was considered by the Commission, vide proceedings dated 16.7.09 and issued a notice u/s 18 (a)(i) of PHR Act to the Secretary, Ministry of Defence, to show cause why suitable monetary relief should not be given to the two victims.

Response to show cause notice has been submitted by the Under Secretary to the Govt. of India, Ministry of Defence, vide his communication dated 15.2.10. As per this report the banned ULFA had issued a boycott call of Republic day celebrations (2009) and hence the last week of January was being observed as high threat period by Security Forces. Reliable intelligence sources confirmed presence of a large group of militants in general area Purni Jaboka and a joint military operation to nab the militants was

planned by troops of 871 Field Regiment and 316 Field Regiment. During the operation the Security forces came under indiscriminate militant fire and two policemen were killed. The militants managed to escape. Thereafter a massive search operation was launched in the entire area over next two days i.e. 30.1.2009 & 31.1.2009 to apprehend the militants. During this operation reliable intelligence inputs revealed that Shri Bhadrakanta Baruah and Shri Ghana Neog harboured and provided food and shelter to ULF A cadres on 28. 1. 09 and hence, both these individuals were apprehended on 31. 1.09 at 2100 Hrs. During the questioning, both the individuals accepted that the militants had stayed in their house on 28.1.09 before proceeding towards village Purni Jaboka on the next day. Hence, both of them were handed over to P.S. Sonari with a request for lodging an FIR on 31. 1.09. Any torture during the interrogation has been denied. The report further says that only one injury each i.e. contusion injury over dorsal aspect of right elbow with swelling and contusion injury over left zygomatic region of pale and reddish discolouration of skin were found on Bhadrakanta Baruah and Ghana Neog respectively and the same are not compatible with the alleged assault with electric shocks.

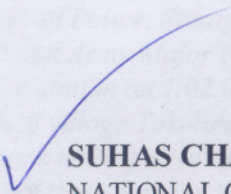
The Commission has carefully considered the material on record. During the investigation by the police, victims were not found having any link with ULFA and were released on the same day. This negates the claim of the Ministry of Defence that they confessed before the Army personnel that they had given shelter to the militants. These two persons remained in the custody of Army for three hours and immediately after they were produced before the police they were got medically examined which disclosed the injuries mentioned above which were caused by blunt object. Even though the injuries have been opined by the doctor as simple, yet they are suggestive of torture during the interrogation by the Army personnel. Hence, prima-facie, a case of violation of human rights is made out and the Govt. of India cannot escape its liability to compensate them monetarily. Consequently, the Commission recommends to the Govt. of India, through Defence Secretary, to pay compensation of Rs. 50,000/- reach to the two victims. The Defence Secretary is directed to submit compliance report alongwith proof of payment within six weeks.

It is therefore, requested that the compliance report in the matter be sent to the Commission latest by 21-04-2010, so that the same could be placed before the Commission.

Yours faithfully,

ASSISTANT REGISTRAR (LAW)

CC To.

 **SUHAS CHAKMA, DIRECTOR**
NATIONAL CAMPAIGN FOR PREVENTION OF
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WEST DELHI, DELHI. 110058