

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

Dated 12/02/2015

Case No. 40/3/16/2010-AF/DB-II

9 MAR 2015

✓ SHRI SUHAS CHAKMA, DIRECTOR
NATIONAL CAMPAIGN FOR PREVENTION OF TORTURE,
C-3/441-C, JANAKPURI,
DELHI.

Sir/Madam,

With reference to your complaint dated 23/02/2010, I am directed to say that the matter was considered by the Commission on 11/02/2015. The Commission has made the following directions.

The Commission vide proceedings dated 13.6.2013 recommended to the Ministry of Defence, Govt. of India to pay a sum of Rs. Five lakhs as relief to the next of kin of the deceased Bijoy Boro and submit compliance report alongwith proof of payment.

Pursuant to the directions of the Commission, Under Secretary, to the Govt. of India, Ministry of Defence, New Delhi vide communication dated 6.1.2014 has forwarded a photocopy of receipt regarding payment of Rs. Five lakhs as relief to the next of kin of the deceased Bijoy Boro.

Since recommendation of the Commission has been complied with, the case is closed.

This is for your information.

Yours faithfully,

DEPUTY REGISTRAR(LAW)

Copy to:

THE UNDER SECRETARY (AG-I)
MINISTRY OF DEFENCE
SENA BHAWAN, **B Wing,**
NEW DELHI - 110 011

wrt/ 11(04)/2011-D(AG)

National Human Rights Commission

New Delhi, India

Case Details of File Number: 40/3/16/2010-AF

Diary Number	20959
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	BIJAY BORO S/O UKTARAM BORO
Address	R/O VILLAGE- KARIGAON, PS- HELEM, SONITPUR , ASSAM
Place of Incident	SINGLIJAN ELEPHANT RESERVE HEL SONITPUR , ASSAM
Date of Incident	2/19/2010
Direction issued by the Commission	In response to the Commission's proceedings of the 13th June, 2013, it has been informed by Army Headquarters that a cheque for Rs. 5 lakhs has been deposited with the Additional Deputy Commissioner(ADC), Sonitpur. The Commission finds that this cheque was received in the office of the ADC on the 30th September, 2013. It expects, therefore, that payment would have been made by now to the next of kin of the late Bijoy Boro. The Commission shall expect to receive proof from the ADC, Sonitpur by the 22nd January, 2014 that this payment has been made. If this proof is not received, the Commission may be constrained to invoke its powers under section 13 of the Protection of Human Rights Act. Put up on the 29th January, 2014.
Action Taken	Additional Information Called for (Dated 12/18/2013)
Status on 5/10/2014	Commission is considering the reports received from concerned authority

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

Tel.No. 24651330 Fax No. 24651329 E-Mail: covdnhrc[at]nic[dot]in, lonhrc[at]nic[dot]in

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, lonhrc[at]nic[dot]in

Disclaimer: Neither NHRC nor NIC is responsible for any inadvertent error that may have crept in the information being published on NET.

अस्वीकरण : नेट पर प्रकाशित सूचना में, अनजाने में हुई किसी भी गलती के लिए न तो एन.एच.आर.सी. न ही एन.आई.सी. जिम्मेदार है।

National Human Rights Commission

New Delhi, India

Case Details of File Number: 40/3/16/2010-AF

Diary Number	20959
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	BIJAY BORO S/O MUKTARAM BORO
Address	R/O VILLAGE- KARIGAON, PS- HELEM, SONITPUR , ASSAM
Place of Incident	SINGLIJAN ELEPHANT RESERVE HEL SONITPUR , ASSAM
Date of Incident	2/19/2010

In response to the Commission's proceedings of the 13th April, 2013, the Ministry of Defence has argued that relief should not be given to the next of kin of the late Bijoy Boro, since the operation in which he was killed was 'conducted in accordance with laid down procedure and there was no human rights violation by the security forces'. The Commission is surprised by this contention. It is for the National Human Rights Commission, not for the armed forces, to judge if indeed a violation of human rights was committed. On this case, for the reasons it had outlined in its proceedings of the 13th March, 2013, the Commission was unable to accept the claim put forward by the armed forces on the encounter. It was on that basis that the Commission asked the Ministry of Defence to show cause why relief should not be recommended. None of these substantive points on the basis of which the Commission reached its conclusions, have been answered by the Ministry of Defence. To reiterate, that the father of the late Bijoy Boro, as well as the Village Headman, have categorically denied that he had any links to an extremist organization. The Commission has noted on many other cases that, whenever a person who has been killed was indeed a member of an extremist's organization, his family and other villagers have invariably admitted this, often adding that they had lost contact with him once he joined these groups. The Commission also notes that, in these close-knit communities, the fact that a young man has joined the extremists cannot be hidden, and the families therefore concede what is a matter of local knowledge. The categorical denial by the family that Bijoy Boro was not an extremist cannot, therefore, be brushed aside particularly since this was supported by the Village Headman. It is entirely possible, therefore, as indeed the complainant had argued in his submission to the Commission, that the security forces killed him under the impression that he was a militant, since he happened to be in an area where they were conducting their operation. The force might well argue that this man should not have been in this area, but it appears that the spot where Bijoy Boro was killed was very close to the village where he lived. There is strong circumstantial evidence for this. The relevant GDE of the police station recorded at 10.30 PM on the 18th February, 2010, shows that the police already had left to rendezvous with the army, having received a report on the encounter. The body was handed over at 2 am on the 19th February, which means that it took the police several hours to reach the spot. The inquest was carried out at 8 am at the police station, and recorded that Bijoy Boro's father was present and had identified him. In turn, this means that the family had come to know almost immediately about the death, and had managed to come to the police station by early the next morning. Unless the village was very close to the spot of the encounter, it is unlikely that they would get to know about the death so quickly. The Commission also notes that the encounter took place, not in the late at night, but at 4 pm. The meteorological record shows that the sunset over Sonitpur that day at 5.14 pm. It was entirely possible that Bijoy Boro was going about his lawful business in the vicinity of his village in the late afternoon when he was mistaken by the forces for an extremist and shot. The Commission has already pointed out that it has not been established by the police, through any of the standard forensic tests that the weapon allegedly recovered from the site had either been handled or fired by the late Bijoy Boro. For these reasons, the Commission is unable to accept the request made by the Ministry of Defence. It recommends that the Government of India pay Rs. 5 lakhs as relief for the next of kin of the late Bijoy Boro. Proof of payment will be expected by the 22nd August,

Direction issued by the Commission

7/15/13

nhrc.nic.in/display.asp

2013. Put up on the 29th August, 2013.

Action Taken

Relief granted [Compensation, Disciplinary & Prosecution] (Dated 6/13/2013)

Status on 7/15/2013

Compliance of the Commission's recommendation by the concerned authority is awaited.

Note: For further details kindly contact **National Human Rights Commission, Copernicus Marg, New Delhi, PIN 110001 Tel.No. 23385368 Fax No. 23384863 E-Mail: covdnhrc@nhrc.nic.in**

Disclaimer: Neither NHRC nor NIC is responsible for any inadvertent error that may have crept in the Complaint Information being published on NET. The Complaint Information on net is for immediate information to the Complainants/Victims