



National Human Rights Commission, New Delhi, India

Case Details of File Number: 133/3/2004-2005-AD

Diary Number	11143
Name of the Complainant	SUHAS CHAKMA, DIRETOR
Address	ASIAN CENTRE FOR HUMAN RIGHTS JANAKPURI WEST DELHI, DELHI
Name of the Victim	DWIPEN BAYAN
Address	NA WEST DELHI, DELHI
Place of Incident	BODOLAND TERRITORIAL ASSAM, ASSAM
Date of Incident	1/26/2004

Direction issued by the Commission

These proceedings shall be read in continuation of the earlier proceedings of Commission dated 4-5-2007. On 4-5-2007, the Commission observed and ordered thus:- "On consideration of the post mortem report and other facts and circumstances of the case, the Commission is prima facie convinced that there was blatant violation of human rights of the deceased Dwipen Sayan. Life is a divine boon and Article 21 of the Constitution guarantees the safety of life. The police is under legal obligation to protect the life and property of citizen. If the police itself is found involved in violation of human rights, it becomes a matter of serious concern to the society. Therefore, the Commission is satisfied that it is a fit case of grant of immediate interim relief. Therefore, notice u/s Thus, it is a clear violation of human rights and it is a fit case in which payment of immediate interim relief to NOK of deceased should be recommended. Accordingly, it is directed that a Notice u/s 18 (3) of the Protection of Human Rights Act 1993 be of the Protection of Human Rights Act, 1993 be issued to the Govt. of Assam thorough its Chief Secretary to show cause why immediate interim relief be not recommended to be granted in favour of the next of kin of the deceased, Dwipen Sayan. The status of FIR No. 16/05 u/s 302 IPC also be obtained from SP, CID, Assam. Response in 6 weeks. Put up thereafter". Pursuant to the directions of the Commission, Joint Secretary, Govt. of Assam, Political (A) Department, vide communication dated 15-6-2007 submitted that two cases relating to death of Dwipen Bayan s/o late Saaton Bayan of Udalguri town were registered by Assam Huamn Rights Commission vide case No. 5225 and 5226. In the judgement and order dated 26-12-2006, AHRC ordered payment of rupees one lakh to the next of kin of late Dwipen Bayan. It has been further submitted that in a judgement and order dated 9-6-2006 in Writ Petition No. 18/2006 filed by Mrs. Anima Bayan, Guwahati High Court had directed State Govt. to pay a sum of rupees two lakh to the petitioner. The compensation of rupees two lakh was disbursed to Mrs. Anima Bayan as reported by SP, Udalguri. As regards the status of case, it has been submitted that SP, CID, Assam has already been directed to submit status of report of case No. 16/05 u/s 302 IPC. The Dy. Secy, Home (A) Govt. of Assam vide communication dated 15-6-2007, has already been directed to submit a status report of according prosecution sanction against S.I. Mahesh Nath. The status report will be submitted to the Commission as soon as the details are received. A copy of Writ Petition No. 18/2006 filed by Amina Bay tan is enclosed with the report. SP, CID, Assam vide communication dated 16-7-2007 submitted that complainant Baidya Bayan S/o late Bharani Bayan of Udalguri Town lodged a written ejahar to the effect that in the night of 25-1-2005 senior unknown culprits murdered his younger brother Dipu Sayan slo Late Sonaton Sayan of Udalguri Town hanged in a hat at Udalguri Weekly Market. During investigation, I.O. visited the place of occurrence and prepared inquest report of the dead body

and thereafter sent the dead body to Guwahati Medical College Hospital for post mortem examination. I.O. examined the witnesses found involvement of S.I. Mahesh Nath, who was arrested and sent to Jail. Post mortem report, chemical examination report and FSL report have been collected. During investigation, the circumstantial evidence is found against S.I. Mahesh Nath. Charge-sheet has been submitted on 13-2-2007 u/s 302 IPC. On the basis of above, it is clear that rupees one lakh has been granted by State Human Rights Commission to NOK of Dwipen Sayan and rupees two lakh to Mrs. Anima Sayan by the order of High Court. Under these circumstances, it will not be appropriate to award further immediate interim relief to NOK of the deceased. As the charge-sheet has been submitted against S.I. Mahesh Nath in the court, the matter is sub-judice. No further action on the part of the Commission is called for. The case is closed.

Action Taken

Status on 4/30/2009

Concluded and No Further Action Required (Dated 9/19/2007)

The Case is Closed.

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@hub.nic.in**

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National Human Rights Commission, New Delhi, India

Case Details of File Number: 133/3/2004-2005-ad

Diary Number 11143
Name of the Complainant SUHAS CHAKMA, DIRETOR
Address ASIAN CENTRE FOR HUMAN RIGHTS JANAKPURI
WEST DELHI , DELHI
Name of the Victim DWIPEN BAYAN
Address NA
WEST DELHI , DELHI
Place of Incident BODOLAND TERRITORIAL
ASSAM , ASSAM
Date of Incident 1/26/2004

Direction issued by the Commission

Shri Suhas Chakma, Director, Asian Centre for Human Rights, Janakpuri, New Delhi vide his petition dated 29.1.2005 sought the intervention of the Commission in the case of alleged custodial death of Dwipen Sayan in the custody of Udalguri Police Station on 26.1.2004. Allegedly, the deceased was arbitrarily arrested by SI, M.C. Nath on the night of 25.1.2005 and on the next day, the body of the deceased was found in the shed at the weekly market of Udalguri town. The complainant has sought judicial enquiry into the matter and to provide an interim compensation to the family of the deceased. Upon receipt of the complaint, the Commission vide proceedings dated 18.2.2005 directed that notice be sent to Director General of Police, Assam. It was further directed that explanation be also called for not reporting death in custody in accordance with the guidelines of the Commission. In response to the notice, Shri P.C. Phukan, Supdt. of Police, Udalguri, BTAD, Assam forwarded the detailed report submitted by Addl. Circle Inspector of Police, Udalguri in connection with the above mentioned case along with relevant documents vide his communication dated 3.8.2005. It has further been informed that the case has been handed over to CID, Assam, Guwahati vide Memo No. CID/II(P)02/05/724-27 dated 18.2.2005 and now the case is pending investigation with CID Assam, Guwahati. The perusal of the enquiry report indicates that in this respect, a case FIR No. PS Case No. 16/05 u/s 302 IPC has been registered. During investigation, SI, M.C. Nath was arrested on 26.1.2005 and the investigation is in progress. The report further transpires that viscera examination report is also awaited. After perusing the report, the Commission vide proceedings dated 13.10.2006 directed that fresh status of case FIR No. 16/05 u/s 302 IPC be called from Supdt. of Police, CID, Assam, Guwahati within 4 weeks. Pursuant to the directions of the Commission, Supdt. of Police, CID, Assam, Guwahati vide communication dated 8.1.2007 has submitted report. Relevant part of the report reads as under:- "I am directed to inform you that the investigation of Udalguri P. S. C/No. 16/05, u/s 302 IPC has already been completed. The case is pending for non-receipt of necessary Prosecution sanction from the Deputy Secy. To the Govt. of Assam, Home (A) Deptt. against S.I. Mohesh Nath, the then O/C of Udalguri P.S. (The only accused of the case). As soon as the necessary prosecution sanction is received the case will be returned in C.S." On consideration of the post mortem report and other facts and circumstances of the case, the Commission is prima facie convinced that there was blatant violation of human rights of the deceased Dwipen Sayan. Life is a divine boon and Article 21 of the Constitution guarantees the safety of life. The police is under legal obligation to protect the life and property of citizens. If the police itself is found involved in violation of human rights, it becomes a matter of serious concern to the society. Therefore, the Commission is satisfied that it is a fit case of grant of immediate interim relief. Therefore, notice u/s 18(3) of the

Protection of Human Rights Act, 1993 be issued to the Govt. of Assam through its Chief Secretary to show cause why 'immediate interim relief' be not recommended to be granted in favour of the next of kin of the deceased, Dwipen Sayan. The status of FIR No. 16/05 u/s 302 IPC also be obtained from SP, CID, Assam. Response in 6 weeks.

Action Taken

Status on 8/24/2007

Note: For further details kindly contact **National Human Rights Commission, Copernicus Marg, New Delhi, PIN 110001 Tel.No. 23382742 Fax No. 23384863 E-Mail: covdnhrc@hub.nic.in**

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