

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

Dated 29/09/2015

Case No. 328/1/7/09-10-AD

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

- 6 OCT 2015

Sir/Madam,

With reference to your complaint dated 06/08/2009, I am directed to say that the matter was considered by the Commission on 28/09/2015. The Commission has made the following directions.

LINKED WITH CASE NO.322/1/19/09-10-PCD/DB-II

The Commission vide proceedings dated 21.11.2013 recommended to the Govt. Pradesh to pay a sum of Rs. Five lakhs to the next of kin of the deceased B Janardhan and submit compliance report alongwith proof of payment .

Pursuant to the directions of the Commission, Secretary, to the Govt. of General Administration (Law & Order) Department vide communication dated 29.6.2015 has forwarded a copy of the receipt regarding payment of Rs. Five lakhs to the mother of the deceased B Janardhan.

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

This is for your information.

Yours faithfully,


DEPUTY REGISTRAR (LAW)

National Human Rights Commission

New Delhi, India

Case Details of File Number: 322/1/19/09-10-PCD

Diary Number 2573
 Name of the Complainant ASSISTANT COMMISSIONER OF POLICE
 Address GOPALAPURAM DIVISION
 SECUNDERABAD , ANDHRA PRADESH
 Name of the Victim B. JANARDHAN S/O LATE. B. RAMULU
 Address SHAIKPET, GOLCONDA (M)
 RANGAREDDY , ANDHRA PRADESH
 Place of Incident GANDHI HOSPITAL SECUNDERABAD
 SECUNDERABAD , ANDHRA PRADESH
 Date of Incident 8/4/2009

The case relates to the death of one B. Janardhan on 4th August, 2009, while he was in police custody. The Commission called for various required reports on taking cognizance of the intimation relating to the death received from the Assistant Commissioner of Police, Secunderabad. The post-mortem report revealed nine external injuries and two internal injuries. The cause of death was suggested as one of neurogenic cardio-vascular failure and coronary insufficiency. The Magisterial enquiry also concluded that the death was not due to torture by the police while the deceased was in custody. In fact, the conclusion in the magisterial enquiry was in tune with the post-mortem report. However, having noticed that the post-mortem and histopathology reports did not show evidence that the heart was damaged and the autopsy only found that the aorta showed atheromatous changes, which would be normal in a man of his age, asked the Investigation Division to forward the said reports to the Forensic Medicine Expert on the panel of doctors and obtain his opinion. The relevant observations of the Commission vide its proceedings dated 5.3.2013 reads as under:- "These proceedings are in continuation of the Commission's consideration of the death of B. Janardhan on the 4th August 2009, in the custody of PS Chilakala Guda, District Hyderabad, Andhra Pradesh. The police had reported that the late B. Janardhan and one of his accomplices were taken into custody early on the morning of the 4th August 2009, in connection with a robbery. Some of the stolen goods were recovered from the houses of both men. Around 6 PM that day, while they were returning to the police station, B. Janardhan complained of severe chest pain and was rushed to the nearest hospital, where the doctors declared him dead. The Commission has received a copy of the report of the magisterial enquiry, which accepted the medical assessment that B. Janardhan had died from "neurogenic cardio-vascular failure and coronary insufficiency (heart attack)". The magistrate held that there was no suspicion of or foul play on the part of the police. However, the Commission also notes that the postmortem and the histopathology showed no evidence that the heart was damaged. The autopsy only found that the aorta showed atheromatous changes, which would be normal in a man of his age. There was no indication, either from the dissection at the postmortem, or from histopathology, that the late Janardhan had suffered a heart attack. The Commission is surprised, therefore, that the doctor concerned in the Gandhi Medical College, Hyderabad, held that the postmortem findings were consistent with death due to neurogenic cardio-vascular failure and coronary insufficiency. The Commission notes that the Magistrate slurred over the findings in the postmortem of 9 external and 2 internal injuries on the body. He noted, as the police have also done, that the doctors held that these were not in themselves sufficient to cause death. The Commission has had the CD of the autopsy and its report examined by a forensic specialist, who has pointed out that there were 15 injuries on the body, not the 11 wrongly noted. While, in response to leading questions put by the police, the doctors at this hospital had said that the injuries they saw in the postmortem could have been caused by someone falling inside a moving vehicle after suffering a heart attack, the forensic specialist has pointed out that some of these injuries could not have been caused by such a fall. In particular, he has drawn attention to the following injuries. Injury no. 8, which was a diffused contusion, bluish in colour, over both buttocks extending up to the upper 1/3rd of thigh, showing presence of deep-seated blood clots when the injury was incised (established by the CD); Injury no. 9, contusions on the soles of both feet; Injury no. 10, a contusion measuring 5x4 cm over the right occipital region; and Injury no. 11, two contusions of 4x3 cm and 3x2 cm over the left parietal region. The forensic specialist has noted that these injuries are typically and frequently found in cases of custodial torture. The specialist has also pointed out that these injuries collectively could cause death in the ordinary course of events due to massive blood loss. Considering the entire record, he is of the opinion that the late B. Janardhan died as a result of haemorrhagic shock as a result of the combined effect of multiple injuries. Given this categorical advice, the Commission is unable to accept the conclusions of the magisterial enquiry. It must hold that a grievous violation of human rights was committed here for which interim relief is necessary. The Commission therefore asks the Government of Andhra Pradesh to show cause why it should not recommend such interim relief for the next of kin of the late B. Janardhan. Separately, the Commission asks the Government of Andhra Pradesh to have a CBCID enquiry conducted on this death. The Commission shall expect a response from the Government of Andhra Pradesh by the 22nd May, 2013." Pursuant to the above proceedings of the Commission the Forensic Medicine Expert opined that the death was due to "haemorrhagic shock as a result of combined effect of multiple injuries" and not as opined by the doctors who conducted the post-mortem. In view of the conflicting opinions, the Commission ordered an enquiry by CID, Andhra Pradesh to find out as to whether there was any foul play and violation of human right in the death of the deceased in question. The report of the Addl. DGP, CID, Andhra Pradesh dated 9.5.2013 was received by the Commission reiterating the earlier view of the investigation by the police. The said report was again placed before the Forensic Medicine Expert on the NHRC Panel. On perusal of the above, the doctor has opined as follows:- "This is in reference to the proceedings of the Commission dated 12.6.2013 and in continuation to the opinion dated 29.11.2012. After perusal of the CBCID Andhra Pradesh report; I assert that my observations are based on the findings of the basic post-mortem report only which were re-confirmed by viewing the CD and not merely on any surmises. In fact whatever is mentioned in PM report has been reconfirmed only. Further mere elaboration of injuries at Sl.No.3,4 & 11 has been made which were described by the doctor himself. The whole pattern of injuries is a clear pointer towards custodial torture as has been documented in world medical literature. Any question of misinterpretation does not arise, since my observations are based on clear scientific facts without any ambiguity. It is wrong to suggest that the opinion is based only on examining the video CD and therefore no question of misinterpreting the artifacts arises. Further also HPE report is not placed on the file. Even otherwise the cause of death

Direction Issued by the Commission

after going through the post-mortem findings and reaffirmed after examination of CD would remain as "haemorrhagic shock as a result of combined effect of multiple injuries" and not as mentioned under subsequent opinion. The injuries mentioned in the post-mortem report were ante-mortem in nature. Scientific facts remain scientific facts and they can't be altered by any lay witness who invariably are motivated because of various reasons." The Commission carefully considered both the reports submitted by the State Forensic Expert as well as the Forensic Medicine Expert on the NHRC Panel. Though the PMR found nine external injuries it should be noticed that injuries No. 8, 9, 10 and 11 are technically and frequently found in cases of custodial torture as could be seen from the opinion of the forensic specialist. This conclusion arrived at by the Commission vide its proceedings dated 5.3.2013 has not been answered to its satisfaction, after the subsequent investigation by the CID. Significantly, the inquest report did not refer to the above nine external injuries which cast serious suspicion over the investigation. Though the police officials strongly relied upon the Magisterial Enquiry to contend that there was no foul play as stated by the close relatives of the deceased, we do not find any justification to accept the same as those statements were made on the information given to them by the police and the statements are verbatim. In view of the above, the Commission is of the considered opinion that the report of the Forensic Medicine Expert of NHRC Panel has to be necessarily accepted as it is an independent report. Accordingly, the Commission concludes that the death of the deceased in question is not because of "neurogenic cardio-vascular failure and coronary insufficiency" but it is due to "haemorrhagic shock as a result of combined effect of multiple injuries" and the theory of the police, is therefore, not acceptable to the Commission. In the facts and circumstances of the case, a recommendation is made to the Government of Andhra Pradesh that a sum of Rs.5.00 lakhs be paid to the NOK of the deceased B. Janardhan within eight weeks. Chief Secretary, Government of Andhra Pradesh is required to submit compliance report along with proof of payment on or before the 30th January, 2014. List the matter on the 6th February, 2014.

Action Taken

Status on 5/26/2014

Relief granted [Compensation, Disciplinary & Prosecution] (Dated 11/21/2013)

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

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. कॉम्प्लेक्स, आई.एन.ए., नई दिल्ली - 110023,

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