

**Case Details of File Number: 16672/24/52/2012-AD****Diary No:** 62051**Name of the Complainant:** TEJANG CHAKMA, COMPLAINTS COORDINATOR**Complainant Address:** ASIAN CENTRE FOR HUMAN RIGHTS, C-3/441-C, (2ND FLOOR), JANAKPURI, 255620583,**Name of the Victim:** KISHAN KUMAR**Place of Incident:** SAMPREKSHAN GRIH, MATHURA**Date of Incident:** 08/05/2012**Action Taken:**

Vide proceedings dated 04.09.2018 of the Commission, conditional summon was issued to the Chief Secretary, Government of Uttar Pradesh for submission of compliance report along with proof of payment on or before 04.10.2018, failing which he was directed to appear in person on 10.10.2018 before the Commission. Pursuant to the directions of the Commission, a report dated 04.10.2018 has been submitted by Principal Secretary, Uttar Pradesh Government, Lucknow. The Chief Secretary is exempted from his personal appearance before the Commission. It is regrettable that compliance report has not been submitted by Chief Secretary even after lapse of three years and unrelated issue has been raised by him. New findings of enquiry officer vide his office memo dated 02.02.2016 cannot absolve the State's liability to pay compensation to the NOK of Victim in the case since custodial death occurred otherwise due to negligent acts of In-charge of Juvenile Remand Home and due to failure in discharging his lawful duties. The Commission again directs the Chief Secretary, Government of Uttar Pradesh for submission of compliance report along with the proof of payment within four weeks positively.

**Status :** Action Taken On 29/10/2018**Action Due Date:** 07/12/2018

Assistant Registrar(LAW)  
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Case No. 16672/24/52/2012-AD  
NATIONAL HUMAN RIGHTS COMMISSION  
(LAW DIVISION)

\* \* \*  
MANAV ADHIKAR BHAWAN, BLOCK-C,  
G.P.O. COMPLEX,  
INDIA NEW DELHI 110032

Dated 11/04/2015

Case No. 16672/24/52/2012-AD  
To

28 APR 2015

THE CHIEF SECRETARY  
GOVT. OF UTTAR PRADESH, LUCKNOW

Sub : Complaint from

TEJANG CHAKMA, COMPLAINTS  
COORDINATOR  
ASIAN CENTRE FOR HUMAN RIGHTS, C-3/441-C,  
(2ND FLOOR), JANAKPURI,  
<DIRECTOR@ACHRWEB.ORG> 255620583,  
WEST DELHI DELHI 110058

Sir/Madam,

I am directed to say that the matter was considered by the Commission on 04/04/2015 and the Commission has directed as follows.

*These proceedings shall be read in continuation of the earlier proceedings dated 17.06.2014. A notice u/s 18 (a) (i) of the Protection of Human Rights Act, 1993 was directed to be issued to the Govt. of Uttar Pradesh through its Chief Secretary, to show cause as to why the Commission should not recommend monetary relief for the next-of-kin of the deceased inmate Kishan Kumar. He was further directed to submit an action taken report against the Incharge of Remand Home Sh. Hori Lal and Dr. R.N. Garg. Pursuant to that, a reply dated 12.09.2014 has been submitted by the SP (Rural), Nodal Officer (Human Rights), in which he stated that a case Crime No. 181/13 was registered u/s 149,302 IPC and 3(2)5 SC/ST Act, against Hori Lal and six other persons. After completion of investigation final report No. 234/13 has been submitted. There is no justification of granting compensation because the father of the deceased is a government servant. Another reply dated 04.12.2014 has been submitted by Joint Secretary, Govt. of Uttar Pradesh in which it is stated that no criminal negligence was found on the part of Incharge of Remand Home Sh. Hori Lal and final report has been submitted in the matter. It is further stated that there is no justification of granting compensation because the father of the deceased is a government servant. Another reply dated 14.01.2015 has been submitted by the Director, Women Welfare, Uttar Pradesh, in which it is stated that after completion of the departmental enquiry Sh. Hori Lal, Incharge of Remand Home, was found negligent and has been punished by an entry of 'censure'. It is also mentioned that Dr. R.N. Garg, should have got the deceased admitted in the District Hospital which he did not.*

*The Commission perused the replies and the reports. It is clear from the perusal of the reports that the Incharge of Remand Home, was found negligent and has been punished with an entry of 'censure' and no explanation has been submitted regarding the conduct of the treating doctor Shri R.N. Garg. The Commission observed vide its proceedings dated 17.06.2014:*

"Pursuant to the directions of the Commission, the Deputy Secretary, Government of Uttar Pradesh, has submitted his report dated 31.03.2014. A copy of the Magisterial Enquiry Report is also annexed with. In the report it is mentioned that the deceased fell ill on 06.06.2012. The Incharge of the Remand Home Shri Hori Lal demanded for the police force. He did not call the nominated doctor. His father stated that his son told that he was suffering from fever since 18.04.2012. His Counsel moved an application before the Juvenile Board. The Court passed orders that the inmate be treated as per rules. The Incharge of Remand Home was supposed to get the inmate medically examined on 02.05.2012, but he sent him on 07.05.2012 in the Police custody. In the inquiry it is concluded that there was gross negligence on the part of Shri Hori Lal, Incharge of Remand Home. He has also held that Dr. R.N. Garg did not discharge his duty properly. If he had acted properly the incident could have been averted. It is stated that the Secretary, Department of Health, Uttar Pradesh, has been requested for taking necessary action against Dr. R.N. Garg"

In these circumstances, a clear case of violation of Human Rights is made and the next-of-kin of the deceased Kishan Kumar deserves to be compensated.

Keeping in view the facts and circumstances of the case, the Commission recommends to the Govt. of Uttar Pradesh through its Chief Secretary to pay a compensation of Rs.2,00,000/- (Rupees Two Lakhs only) to the next-of-kin of the deceased Kishan Kumar.

The Chief Secretary, Govt. of Uttar Pradesh, is directed to submit compliance report alongwith proof of payment within 08 weeks.

It is therefore, requested that the compliance report in the matter be sent to the Commission latest by 30/06/2015, so that the same could be placed before the Commission.

Yours faithfully,



ASSISTANT REGISTRAR (LAW)

CC To,

NNNN  
NNNN

16672/24/52/12

✓ TEJANG CHAKMA, COMPLAINTS  
COORDINATOR

ASIAN CENTRE FOR HUMAN RIGHTS, C-3/441-C,  
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