

NATIONAL HUMAN RIGHTS COMMISSION  
(LAW DIVISION)  
MANAV ADHIKAR BHAWAN, BLOCK-C, G.P.O. COMPLEX,  
INA, NEW DELHI- 110025

Dated 09/07/2015

Case No. 29/11/2/2010-AD/DB-I

✓  
Shri SUHAS CHAKMA, DIRECTOR, NCPT  
C-3/441-C, JANAKPURI,  
NEW DELHI – 110 058.

16 JUL 2015

Sir/Madam,

With reference to your complaint dated 29/01/2010, I am directed to say that the matter was considered by the Commission on 27/05/2015. The Commission has made the following directions.

LINKED WITH CASE NO.29/11/2/2010-PCD


*In this matter, the Commission vide its proceedings dated 1st January, 2014, recommended to the Government of Kerala to pay a sum of Rs.1.00 lakh to the NOK of Komath Nazar for his death due to absence of care on the part of police personnel on duty while keeping him in police custody.*

*Now, a communication dated 11.7.2014 has been received by the Commission from the Additional Chief Secretary, Government of Kerala stating that Rs.one lakh as compensation has been paid to the NOK of the deceased Komath Nazar, S/o Salim. Proof of payment has also been enclosed therewith.*

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

This is for your information.

Yours faithfully,

  
DEPUTY REGISTRAR(LAW)

COPY TO:

SMT. KADEEJA W/O KOMATH NAZAR  
JASEELA MANZIL, KETTINAKAM  
PO MUZHUPPILANGAD,  
KANNUR,  
KERALA.

# National Human Rights Commission

New Delhi, India

## Case Details of File Number: 28/11/2/2010-PCD

Diary Number	9574
Name of the Complainant	SUPERINTENDENT OF POLICE
Address	KANNUR , KERALA
Name of the Victim	KOMATH NAZAR S/O SALIM
Address	JASEELA MANZIL, KETTINAKKAM, MUZHAPPILAGAD, (EDAkkAD POLICE STATION LIMITS) KANNUR , KERALA
Place of Incident	THALASSERY PS. KANNUR , KERALA
Date of Incident	1/25/2010
Direction issued by the Commission	Komat Nazar, aged 38 years committed suicide in the lockup attached to P.S. Thalassery, District Kannur on 25.1.2010 by hanging himself with a lungi from the grill of the lockup. The information of his death was given to the Commission by SP, Kannur. A complaint was also received from Shri Suhas Chakma, Director, National Campaign for Prevention of Torture alleging that Komath Nazar had died due to police torture. Finding prima facie that the police guards posted at the police station were negligent, the Commission issued a show cause notice u/s 18 of the Protection of Human Rights Act, 1993 to the Govt. of Kerala. In response to the show cause notice, the State Government has submitted in its communication dated 30.6.2011 that the police had given all possible care to Komath Nazar and his co-accused while they were in custody. It is also stated that Komath Nazar had made an attempt to commit suicide on an earlier occasion in the lockup of Panagad Police Station, Ernakulam. As regards monetary relief, the State Government has not made any comment in its communication. We find no merit in the plea of the State Government. It has been stated that Cr.No.133/2010 was registered at P.S. Thalassery after the suicide. The case was investigated by CB CID. The investigation report of CB CID is on the record. The investigating agency has stated in the concluding part of its report that "there was absence of due care on the part of police personnel on duty while keeping the deceased in police custody." Since the police has been indicted of negligence in the investigation report of CB CID, we see no reason as to why the State Government should not be held vicariously liable for the death of Komath Nazar. Considering all circumstances, we recommend to the Government of Kerala to pay a sum of Rs one lakh as monetary relief to the next of kin of deceased Komath Nazar. Chief Secretary, Govt. of Kerala shall submit the compliance report with proof of payment within eight weeks.
Action Taken	Relief granted [Compensation, Disciplinary & Prosecution] (Dated 1/1/2014)
Status on 5/21/2014	Compliance of the Commission's recommendations 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

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

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,

फोन नं. 24651330 फैक्स नं. 24651329 ई-मेल : covdnhrc[at]nic[dot]in, ionhrc[at]nic[dot]in

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National Human Rights Commission  
New Delhi, India

Case Details of File Number: 29/11/2/2010-AD

Diary Number	11636
Name of the Complainant	SUHAS CHAKMA, DIRECTOR
Address	NATIONAL CAMPAIGN FOR PREVENTION OF TORTURE, C-3/441-G, JANAKPURI, WEST DELHI , DELHI
Name of the Victim	KOMATH VEETIL NAZAR S/O SALEEM
Address	JASEELA MANZIL, MUZHAPPILANGAD, PS- THALASSERY KANNUR , KERALA
Place of Incident	PS- THALASSERY KANNUR , KERALA
Date of Incident	1/25/2010
Direction issued by the Commission	Sh Suhas Chakma, Director, National Campaign for Prevention of Torture, New Delhi in a complaint dated 29.1.2010 stated that on 25.1.2010 Mr Komath Veetil Nazar died in Custody of Thalassery Police Station in Kannur District of Kerala. The victim was picked up by Police in a cheating case and found dead in the toilets of the police station same day. Police claimed that the victim committed suicide whereas the resident of the area alleged that victim died due to torture. The complainant has requested for Intervention of the Commission to direct the state government to conduct a judicial inquiry into the incident, submitting the Post Mortem Report of the deceased as per guidelines of the Commission, action against the erring police officials and awarding interim compensation to NOK of the deceased. Registry has reported that there is one more case on the same incident (case No. 28/11/2/2010 PCD). Link up with above case.
Action Taken	<b>Additional Information Called for (Dated 2/19/2010 )</b>
Status on 9/21/2012	(No further action conducted authority is awaited)

Note: For further details kindly contact National Human Rights Commission, Copernicus Marg, New Delhi, PIN 110001 Tel.No. 23385366 Fax No. 23384863 E-Mail. [govdnhrc@hub.nlc.in](mailto:govdnhrc@hub.nlc.in)

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## National Human Rights Commission New Delhi, India

Case Details of File Number: 28/11/2010-PCD

Diary Number	9574
Name of the Complainant	SUPERINTENDENT OF POLICE
Address	KANNUR, KERALA
Name of the Victim	KOMATH NAZAR S/O SALIM
Address	JASEELA MANZIL, KETTINAKKAM, MUZHAPPILAGAD, (EDAKKAD POLICE STATION LIMITS) KANNUR, KERALA
Place of Incident	THALASSERY PS KANNUR, KERALA
Date of Incident	1/25/2010
Direction issued by the Commission	<p>The Commission received an intimation dated 27/1/2010 from Supdt. Of Police, Kannur, Kerala about the death of one Komath Nazar S/o Salim, aged 38 years, Jaseela Manzil, Kettinakkam, Muzhappilagod, Kannur District, Kerala on 25/1/2010 at 10.20 hrs while in the custody of Thalassery police. As per intimation the deceased, who was an accused in Thalassery PS Crime No 130/10 u/s 41 (i) (a), (d) 102 Cr P.C. hrs, committed suicide by hanging with cloth piece on the grill of the lock up door of the police station. The Commission took cognizance of the intimation on 12/2/2010 and directed as under:- "DG (I) is requested to collect requisite reports within eight weeks. Thereafter, the case be placed before the Full Commission." The Commission also received a complaint from Shri Suhas Chakma, Director, National Campaign for Prevention of Torture, New Delhi alleging that police torture resulted in his death. The case registered vide No.29/11/2010-AD has been tagged with this file. Pursuant to the above directions of the Commission, Investigation Division of the Commission obtained the inquest and post mortem reports from Under Secretary, Home (SS A) Department, Govt. of Kerala vide communication dated 11/3/2010. As per inquest report, the deceased died due to hanging. However, it suggested post mortem examination to ascertain the cause of death. The post mortem report indicated linear pressure abrasion on the neck below the chiri. The hyoid bone was intact. There is abrasion just below the left knee. The immediate cause of death is recorded as 'died of hanging'. Viscera was preserved for chemical analysis. In his report dated 5/3/2010, the Supdt. Of Police, Kannur has stated that the case is now being investigated by the Supdt. Of Police, CB/CID, H &amp; H Wing, Kozhikode vide order dated 25/1/2010 of the Director General of Police, Kerala. After perusing the record, the Commission vide proceedings dated 12/08/2010 observed and directed as under:- "Despite sufficient time and opportunity has been given, the Magisterial Enquiry Report, viscera report and opinion about final cause of death and the CB/CID enquiry report have not been received in the Commission. The Commission conveys its displeasure to the District Magistrate, Kannur, Kerala for delay in submission of the requisite Magisterial Enquiry Report, which is a mandatory requirement as per Commission's guidelines dated 3/1/2001 in custodial death cases. Under these circumstances, let summon be issued for the personal appearance of the District Magistrate, Kannur before the Commission on 09/11/2010 along with the relevant reports. In case the reports are received on or before 02/11/2010, the personal appearance of District Magistrate, Kannur shall stand dispensed with. The Supdt. Of Police, Kannur is directed to submit the copy of the viscera report and opinion about final cause of death on the basis of chemical analysis of the viscera of the deceased within four weeks. The Supdt. Of Police, CB/CID, H &amp; H Wing, Kozhikode, Kerala and Director General of Police, Kerala, Thiruvananthapuram are directed to submit the CB/CID enquiry report with four weeks." In response to the Summons dated 12/08/2010, Addl District Magistrate, Kannur, Kerala vide communication dated 20/09/2010 has submitted copy each of the CBCID and MER. It has further been stated opinion as to the cause of death is awaited from Police Surgeon Academy of Medical Science, Pariyaram SP, CBCID, HHW-III, Kozhikode in its report has stated that the case is under investigation. Inquest cum Magisterial Enquiry was conducted by the Judicial First Class Magistrate, Thalassery. He concluded in its report as under:- "On examination of witness I am of the opinion that neither local witness, ward member nor his brother has complainants against the police they are waiting for the result of postmortem report and they want an inquiry about the cause of death." During inspection of the body of the deceased, Judicial First Class Magistrate, Thalassery found ligature mark and presence of fibers of cotton lanky on the neck of the deceased. The Commission has perused record. Undisputedly, the deceased was in the custody of police at the time of his death. Therefore, the police authorities were under legal obligation to protect his life and also to ensure that he may not cause self-harm while in custody. Deceased used lungi of a constable as per report, for hanging himself to death. Since, the police authorities have failed in the aforesaid duty of care to protect the life of the deceased, Government of Kerala being the employer, is vicariously liable for the wrong done. In the facts and circumstances narrated above, the Commission directs as under - 1) Issue notice to the Chief Secretary, Kerala to Show Cause as to why the Commission should not recommend monetary relief to the NoK of the deceased who died in the lock up as the police authorities failed in the duty of care to protect the life of the deceased within six weeks. 2) District Magistrate and Senior Superintendent of Police, Kannur and SP, CBCID, HHW-III, Kozhikode, Kerala to submit a copy each of the viscera report, final cause of death and complete report of CBCID within six weeks.</p>
Action Taken	<b>Additional Information Called for (Dated 3/17/2011)</b>
Status on 9/21/2012	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@nhrc.nic.in](mailto:covdnhrc@nhrc.nic.in)

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