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Case No. 111/3/2003-2004-CD
NATIONAL HUMAN RIGHTS COMMISSION
(LAW DIVISION)

FARIDKOT HOUSE
COPERNICUS MARG, NEW DELHI - 110 001

Dated 23/02/2008

To
THE CHIEF SECRETARY
GOVT. OF ASSAM, DISPUR

25 MAR 2008

Sub : Complaint from
THE DISTT. POLICE SONITPUR, TEJPUR
SONITPUR ASSAM, 0

Sir/Madam,

I am directed to say that the matter was considered by the Commission on 20/02/2008 and the Commission has directed as follows.

An intimation through FAX was received from District Police, Sonitpur, Assam intimating that on 7.11.03 ASI Siva Boro of Raikashmari, outpost, alongwith police personnel received information regarding some persons gambling and consuming liquor in the park. The place was raided and 5 persons including Nitai Sarkar aged 35 years was apprehended. He resisted his arrest while bringing him to outpost and he fell on pucca road and received head injury in the process. He was taken to the hospital for medical treatment and was referred to Guwahati Medical College & Hospital for better treatment and on way he succumbed to the injuries. Detailed reports will follow.

The Commission vide its proceedings dated 24.11.03 took cognizance of the same and directed DG (I) to collect relevant reports from the concerned authority. The matter thus rested when a complaint was also received from Director, Asian Centre for Human Rights stating therein that four policemen on patrol duty on receipt of an information reached Raikashmari Chak on 7.11.03 at about 6- 6.30 pm where some people were playing cards. The victim was watching the game. He resisted his arrest when he was brutally assaulted and died on way to hospital. He has requested for action against the police officials and compensation be awarded to the next of kin of the deceased.

Pursuant to the aforesaid directions, a notice dated 2.12.03 was sent to SSP, Sonitpur, Assam. In response to the same, a communication dated 15.12.03 has been received from Inspector General of Police, I/C, Human Rights Cell, Assam, Police Hqrs., Guwahati. He has forwarded the photocopies of medical examination report, inquest report, postmortem report and videography cassette of postmortem examination. From the perusal of the detailed report, it is revealed that on 7.11.03 at about 6.30 p.m., victim Nitai Sarkar was apprehended and a blow was hit on his neck as a result of which he fell down on the pucca road. The Constable assaulted the victim with the butt of his rifle. From the perusal of the postmortem report, it is revealed that the cause of death was due to head injury. From the perusal of the inquest report, it is revealed that blood was seen coming from the mouth and there were beating marks on his body. The magisterial inquiry report has been received alongwith communication dated 16.5.05. From the perusal of the report, it is revealed that Shri Nitai Sarkar met with his death because of the injuries caused to him during his custody with the police party on duty. It is further revealed that the police personnel with whom Shri Nitai Sarkar was in custody should be inflicted proportional quantum

on converted to 304/34 IPC.

After perusing the report, the Commission, vide proceedings dated 27.12.2006 observed as under:-

"From the perusal of the reports, it is revealed that it is a case of violation of human rights wherein an innocent person died due to police torture for which a show cause notice be sent to Chief Secretary, Govt. of Assam, Guwahati u/s 18(3) of Protection of Human Rights Act 1993 as to why interim relief be not recommended to be paid to the next kin of the deceased. Response in four weeks. Let SP, Sonitpur be also asked to apprise the Commission of the status of case FIR No. 1/4 dated 7.1.04 u/s 304/34 IPC. Response in four weeks".

SP, Sonitpur, Tezpur, Assam vide communication dated 6.11.07 has submitted report. Relevant part of the report reads as under:-

"I am to inform you that 01/04 dated 7.1.04 u/s 304/34 I.P.C. is the charge sheet No. of Dhekiajuli P.S. case No. 324/03 u/s 302/34 I.P.C. which was registered in connection with the custodial death of Nital Sarker, Dhekiajuli PS. Case No. 324/03 was charge sheeted u/s 304/34 I.P.C. against accuseds (1) ASI Siba Bora of Sonitpur D.E.F. (2) Havildar Milan Katak (3) Constable Nagendra Sonowal (4) Constable Mridul Katak and (5) Constable Boldev Chandra Royall of 13th Battalion, 20th Platoon. The case is under trial in the court".

Chief Secretary, Assam has not responded despite reminders in a serious case of violation of human rights. An innocent life has been lost due to negligence of policemen. Deceased suffered head injury during police custody. Five policemen have been charge sheeted u/s 304/34 IPC and the case is pending for trial. State must compensate for negligence of policemen. The Commission recommends Rs. 1,00,000/- (Rupees one lac only) be paid to the next of kin of the deceased, as the interim relief, within four weeks, by the State of Assam through its Chief Secretary.

Registry to close the case on receipt of compliance report and proof of payment.

It is therefore, requested that the compliance report in the matter be sent to the Commission latest by 29/03/2008, so that the same could be placed before the Commission.

Yours faithfully,


ASSISTANT REGISTRAR (LAW)

CC To.

THE DISTT. POLICE SONITPUR, TEZPUR

SONITPUR, ASSAM. 0

ISSUED

25 MAR 2008