

**Case Details of File Number: 157/2/4/2014-AD****Diary No:** 173801/CR/2014**Name of the Complainant:** MANISH KANDELWAL, RESERARCHER**Complainant Address:** ASIAN CENTRE FOR HUMAN RIGHTS, C-3/441-C, (2ND FLOOR), JANAKPURI,**Name of the Victim:** PINTU CHAKMA S/O GOLOK CHAKMA**Place of Incident:** DIYUN POLICE STATION**Date of Incident:** 16/10/2014**Action Taken:**

These proceedings should be read in continuation of the earlier proceedings of the Commission dated 1.6.2018. The matter related to the death of an UTP Pintu Chakma while he was in the judicial custody at Diyun Arunachal Pradesh. The Commission vide proceedings dated 17.5.2018 found that there was lapses/negligence on the part of the Jail Administration to provide security and protection as well as necessary treatment to the victim for which the prisoner died. The Commission categorically held that the state of Arunachal Pradesh was vicariously liable. Accordingly, the Chief Secretary, Govt. of Arunachal Pradesh directed to show cause u/s 18 (a) (i) of PHR Act, 1993 as to why a compensation of Rs. two lakhs should not be recommended to be paid to the next of the kin of the deceased. In response to the same, a reply dated 29.8.2018 was received from the Under Secretary, Home, Government of Arunachal Pradesh along with a report dated 14.8.2018 by the Deputy Commissioner, Changlang, Arunachal Pradesh. The substance of the report was that despite providing necessary treatment to the prisoner for his illness, the prisoner died. According to the reply, there was no medical negligence on the part of the medical officer, CHC, Diyun. Further, it was intimated that no one from the family of the deceased turned up for compensation or making any claim in writing with respect to payment of the compensation. The Commission carefully considered the materials on record and took note of the facts and circumstances of the case. Admittedly the prisoner was in the custody of the state. So it was the bounden duty of the authorities of the State for ensuring his safety. But, the Commission vide its proceedings dated 7.5.2018 found that the materials available on record was examined by the expert on the panel of the Commission. The expert in his opinion categorically held that there was negligence on the part of the authorities who were in charge of the custody of the prisoner. Therefore, the Commission held that the state of Arunachal Pradesh was vicariously liable. It might be indicated that the loss of life of the prisoner was a precious loss to his family. In view of the same, the family was entitled to be compensated reasonably. Thus the reply furnished by the state authorities was not acceptable. In the circumstances, the Commission would like to recommend a sum of Rs. 2 lakhs as monetary compensation to be paid to the next of the kin of the deceased by the state of Arunachal Pradesh. The Chief Secretary, Government of Arunachal Pradesh be directed to submit compliance along with proof of payment within six weeks.

**Status :** Action Taken On 13/11/2018**Action Due Date:** 06/01/2019



## Case Details of File Number: 157/2/4/2014-AD

<b>Diary Number</b>	173801/CR/2014
<b>Name of the Complainant</b>	MANISH KANDELWAL, RESERARCHER
<b>Address</b>	ASIAN CENTRE FOR HUMAN RIGHTS, C-3/441-C, (2ND FLOOR), JANAKPURI, NEW DELHI , DELHI
<b>Name of the Victim</b>	PINTU CHAKMA S/O GOLOK CHAKMA
<b>Address</b>	DHUMPANI VILLAGE, DIYUN POLICE STATION, CHANGLANG, CHANGLANG , ARUNACHAL PRADESH
<b>Place of Incident</b>	DIYUN POLICE STATION CHANGLANG , ARUNACHAL PRADESH
<b>Date of Incident</b>	10/16/2014
<b>Direction issued by the Commission</b>	<p>The Commission has received an intimation from the SP., District Changlang regarding judicial custodial death of an UTP Pintu Chakma. As per intimation the deceased was an accused in Case FIR No. 18/2004 u/s 27(1) NDPS Act registered at PS Diyun, who was arrested on 30.04.2004 and sent to Judicial custody on 06.05.2004 at PS Diyun. The deceased was forwarded to the Medical Officer, CHC Diyun on 16.10.2014 for treatment due to illness but he died on the same day during treatment at CHC Diyun. The report of OC, PS Diyun reveals the deceased was forwarded to CHC Diyun for medical examination on 30.04.2014. Medical Officer of CHC Diyun opined that the deceased received simple injury in Right leg. He consumed drugs like substance in day time. Treatment record of the deceased reveals that the deceased was treated at CHC Diyun on 13.10.2014 for dyspepsia. He was again treated at CHC Diyun on 16.10.2014 for lower and extremities weakness. However, his family refused treatment of the deceased. The Inquest report reveals that white secretion from mouth was coming out. There was no external injury. It was opined that the death is due to jaundice from which the accused was suffering. As per Post Mortem report presence of frothing from mouth and nose was found. Hemorrhage was seen on the pleura and pericardium. The death is due to Cardio Respiratory Failure. However, the definite cause could not be determined. The FSL report of the viscera of the deceased reveals no poison. The Enquiry Magistrate did not find any foul play or negligence in the death of the deceased. However, he opined that the deceased died without the opportunity of getting emergency medical aid/support as the wife of the deceased prohibited the doctor for giving the emergency medical treatment to the deceased as he was suffering from Jaundice. In these circumstances, the Commission obtained the opinion of Medical Expert on the panel of NHRC regarding adequacy of treatment and whether there was any negligence in providing treatment to the deceased person. The Medical expert on the panel of NHRC submitted his opinion as under: "After perusal of clinical record and other record as mentioned with chronology of events, I am of the considered opinion that the findings of short duration of 3 days of muscular weakness in absence of other neurological manifestations (headache, neck rigidity, spastic condition etc) with autopsy findings of froth from mouth with healthy brain are not suggestive of death due to CNS (Brain) infection. However, despite having negative FSL report for selective chemical poisons, the possibility of death due to consumption of unknown poisonous substance cannot be ruled out". The Commission has considered the reports and material available on record. As per reports, the deceased was an accused relating to offences u/s 27(1)(a) NDPS who was arrested on 30.04.2014 and sent to judicial custody on 06.05.2014. The deceased was forwarded to CHC, Diyun for medical examination on 30.04.2014 and the Medical Officer opined that he consumed drugs like substance in day time. The Post mortem report reveals presence of froth from mouth and nose. The deceased died due to Cardio Respiratory Failure probably due to infection in the brain. However, definite cause could not be determined. In Viscera report no poison was found. The deceased was treated at CHC Diyun on 13.10.2014 and 16.10.2014 for lower and extremities weakness. However, his family refused treatment of the deceased. It appears that the deceased was suffering from illness like Jaundice but it is not clear whether her was provided treatment for Jaundice. The matter was sent for opinion of the Medical expert on the panel of NHRC and as per opinion of Medical expert , possibility of death of the deceased due to consumption of unknown substance cannot be ruled out. The State is responsible to take care of the person in custody. The death of the deceased due to poison might be due to carelessness and lackadaisical attitude of the authorities. Thus, there was lapses/negligence on the part of Jail Administration to provide security and protection along with proper treatment to the prisoner in their custody. Due to this reason, human rights of the deceased prisoner has been violated and the State is vicariously liable to pay compensation to the NOK of the deceased UTP Pintu Chakma. In view of the above, issue a notice u/s 18 of Protection of Human Rights Act, 1993 to the Government of Arunachal Pradesh through its Chief Secretary to show cause by 25th May, 2018, as to why the Commission should not recommend Rs. 2,00,000/- (Rupees Two lakhs only) as compensation to the NOK of the deceased UTP Pintu Chakma. Registry is directed to list this matter on 25.05.2018 during Camp Sitting of the Commission at Itanagar, Arunachal Pradesh. Parties be informed accordingly.</p>
<b>Action Taken</b>	<b>Additional Information Called for (Dated 5/17/2018 )</b>
<b>Status on 5/18/2018</b>	Response from concerned authority is awaited.

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**Note:** For further details kindly contact **National Human Rights Commission, Manav Adhikar Bhawan Block-C, GPO Complex, INA, New Delhi - 110023**

**For Complaints : Tel.No. 24651330, 24663333. Fax No. 24651332 E-Mail: cr[dot]nhrc[at]nic[dot]in**

**नोट:** अन्य जानकारी हेतु कृपया संपर्क करे **राष्ट्रीय मानव अधिकार आयोग, मानव अधिकार भवन, ब्लॉक-सी, जी.पी.ओ. कम्प्लेक्स, आई.एन.ए., नई दिल्ली - 110023,**

**शिकायतों के लिए : फोन नं. 24651330, 24663333 फैक्स नं. 24651332 ई-मेल : cr[dot]nhrc[at]nic[dot]in**

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EXPRESS POST

Assistant Registrar (Law)  
Fax No.: 011-2465 1332  
Website : www.nhrc.nic.in

Case No. 157/2/4/2014-ad

NATIONAL HUMAN RIGHTS COMMISSION  
(LAW DIVISION)

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MANAV ADHIKAR BHAWAN,  
BLOCK-C, G.P.O. COMPLEX,  
INA, NEW DELHI- 110023

Dated 17/05/2018

Case No.:- 157/2/4/2014-ad

To

MANISH KANDELWAL, RESEARCHER  
ASIAN CENTRE FOR HUMAN RIGHTS, C-3/441-C, (2ND  
FLOOR), JANAKPURI,  
NEW DELHI, DELHI  
Pincode- 110058

18 MAY 2018

Sir/Madam,

With reference to your complaint dated 17/10/2014, I am directed to inform you that the above mentioned complaint along with the report received from the concerned authorities were placed before the Commission on 17/05/2018. Upon perusing the same, the Commission has directed as follows :-

*The Commission has received an intimation from the SP:, District Changlang regarding judicial custodial death of an UTP Pintu Chakma. As per intimation the deceased was an accused in Case FIR No. 18/2004 u/s 27(1) NDPS Act registered at PS Diyun, who was arrested on 30.04.2004 and sent to Judicial custody on 06.05.2004 at PS Diyun. The deceased was forwarded to the Medical Officer, CHC Diyun on 16.10.2014 for treatment due to illness but he died on the same day during treatment at CHC Diyun.*

*The report of OC, PS Diyun reveals the deceased was forwarded to CHC Diyun for medical examination on 30.04.2014. Medical Officer of CHC Diyun opined that the deceased received simple injury in Right leg. He consumed drugs like substance in day time.*

*Treatment record of the deceased reveals that the deceased was treated at CHC Diyun on 13.10.2014 for dyspepsia. He was again treated at CHC Diyun on 16.10.2014 for lower and extremities weakness. However, his family refused treatment of the deceased.*

*The Inquest report reveals that white secretion from mouth was coming out. There was no external injury. It was opined that the death is due to jaundice from which*

Encl: As stated above.

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*the accused was suffering.*

*As per Post Mortem report presence of frothing from mouth and nose was found. Hemorrhage was seen on the pleura and pericardium. The death is due to Cardio Respiratory Failure. However, the definite cause could not be determined.*

*The FSL report of the viscera of the deceased reveals no poison.*

*The Enquiry Magistrate did not find any foul play or negligence in the death of the deceased. However, he opined that the deceased died without the opportunity of getting emergency medical aid/support as the wife of the deceased prohibited the doctor for giving the emergency medical treatment to the deceased as he was suffering from Jaundice.*

*In these circumstances, the Commission obtained the opinion of Medical Expert on the panel of NHRC regarding adequacy of treatment and whether there was any negligence in providing treatment to the deceased person.*

*The Medical expert on the panel of NHRC submitted his opinion as under:*

*"After perusal of clinical record and other record as mentioned with chronology of events, I am of the considered opinion that the findings of short duration of 3 days of muscular weakness in absence of other neurological manifestations (headache, neck rigidity, spastic condition etc) with autopsy findings of froth from mouth with healthy brain are not suggestive of death due to CNS (Brain) infection. However, despite having negative FSL report for selective chemical poisons, the possibility of death due to consumption of unknown poisonous substance cannot be ruled out".*

*The Commission has considered the reports and material available on record.*

*As per reports, the deceased was an accused relating to offences u/s 27(1)(a) NDPS who was arrested on 30.04.2014 and sent to judicial custody on 06.05.2014. The deceased was forwarded to CHC, Diyun fort medical examination on 30.04.2014 and the Medical Officer opined that he consumed drugs like substance in day time. The Post mortem report reveals presence of froth from mouth and nose. The deceased died due to Cardio Respiratory Failure probably due to infection in the brain. However, definite cause could not be determined. In Viscera report no poison was found. The deceased was treated at CHC Diyun on 13.10.2014 and 16.10.2014 for lower and extremities weakness. However, his family refused treatment of the deceased. It appears that the deceased was suffering from illness like Jaundice but it is not clear whether her was provided treatment for Jaundice. The matter was sent for opinion of the Medical expert on the panel of NHRC and as per opinion of Medical expert , possibility of death of the deceased due to*

*consumption of unknown substance cannot be ruled out.*

*The State is responsible to take care of the person in custody. The death of the deceased due to poison might be due to carelessness and lackadaisical attitude of the authorities. Thus, there was lapses/negligence on the part of Jail Administration to provide security and protection along with proper treatment to the prisoner in their custody. Due to this reason, human rights of the deceased prisoner has been violated and the State is vicariously liable to pay compensation to the NOK of the deceased UTP Pintu Chakma.*

*In view of the above, issue a notice u/s 18 of Protection of Human Rights Act, 1993 to the Government of Arunachal Pradesh through its Chief Secretary to show cause by 25th May, 2018, as to why the Commission should not recommend Rs. 2,00,000/- (Rupees Two lakhs only) as compensation to the NOK of the deceased UTP Pintu Chakma.*

*Registry is directed to list this matter on 25.05.2018 during Camp Sitting of the Commission at Itanagar, Arunachal Pradesh. Parties be informed accordingly.*

*Pursuant to the above directions, I am ~~enclosing~~ herewith a copy of the report for furnishing your comments, if any, by 25/05/2018 for consideration of the Commission.*

Yours faithfully,



Assistant Registrar (Law)