

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

Dated 25/10/2013

Case No. 305/6/21/2011

30 OCT 2013

To

✓
TEJANG CHAKMA, COMPLAINTS COORDINATOR
NATIONAL CAMPAIGN FOR PREVENTION OF
TORTURE, C-3/441-C, JANAKPURI,
WEST DELHI, DELHI.

Sir/Madam,

With reference to your complaint dated 24/03/2011, I am directed to say that the matter was considered by the Commission on 18/10/2013. The Commission has made the following directions.

These proceedings shall be read in continuation of the earlier proceedings.

Vide proceedings dated 20/2/13, the Commission recommended to the Chief Secretary, Government of Gujarat to make payment of Rupees 10,000/- monetary compensation to be paid to the victim Rajesh Bhatti and submit the proof of payment within six weeks, In response to aforesaid directions and reminder dated 18/6/13, the Commission has received a report dated 26/7/13 from the Under Secretary, Home Deptt., Government of Gujarat that in compliance with the Commission's directions compensation of Rs. 10,000/- has been paid to Rajesh Bhatti and the receipt of the same is enclosed.

In view of the aforesaid circumstances, no further intervention by the Commission is required. The case is closed.

A copy of these proceedings should be sent to the IO of the Commission and to the recipient of the relief.

This is for your information.

Yours faithfully,


ASSISTANT REGISTRAR(LAW)

Assistant Registrar(LAW)
Tel. No.: 011-2338 5368
Fax No.: 011-2338 6521
Telegraphic Add.: "HUMANRIGHTS"
Home Page : http://nhrc.nic.in

Case No. 305/6/21/2011
NATIONAL HUMAN RIGHTS COMMISSION
(LAW DIVISION)

* * *
FARIDKOT HOUSE
COPERNICUS MARG, NEW DELHI - 110 001

Dated 23/02/2013

To
THE CHIEF SECRETARY
GOVT. OF GUJARAT, GANDHINAGAR

27 FEB 2013

3820/0

Sub : Complaint from

TEJANG CHAKMA, COMPLAINTS
COORDINATOR
NATIONAL CAMPAIGN FOR PREVENTION OF
TORTURE, C-3/441-C, JANAKPURI,
WEST DELHI DELHI 110058

Sir/Madam,

I am directed to say that the matter was considered by the Commission on 20/02/2013 and the Commission has directed as follows.

The complainant alleged that an under trial prisoner Rajesh Bhatti in Rajkot Central Jail, Gujarat was tortured by jail guard Hameer Ahir on 22/3/11 resulting in a fracture in one of his hands. The complainant requested legal action against the guilty jail guard and compensation for the victim.

Vide proceedings dated 15/11/12, the Commission considered the report from the Addl. D.G. of Police, Gujarat. The report mentions that the Enquiry Officer has submitted his preliminary report which revealed that the allegations against Subedar Shri Hamirbhai A. Balasara of beating the U.T.P were found to be partially correct. Departmental Enquiry against the delinquent has been initiated and necessary punishment will be awarded to the delinquent looking into the gravity of the unfortunate incident.

The Commission observed that even if the outcome of the Departmental Enquiry has not been received, the report from the Addl. D.G. of Police, Gujarat admits that the allegations against Subedar Shri Hamirbhai A. Balasara of beating the U.T.P were found to be correct. Therefore, the human rights of the UTP were violated for which the State cannot escape liability. The Commission issued notice under Section 18 a (i) of the Protection of Human Rights Act, 1993 to the Government of Gujarat, through its Chief Secretary, as to why monetary compensation should not be recommended to be paid to the under trial prisoner Rajesh Bhatti.

The Addl. D.G. of Police, Gujarat was also directed to submit a further report as to whether any FIR has been registered against Subedar Shri Hamirbhai A. Balasara for beating the UTP along with the outcome of the departmental action taken against him.

In response, the Commission has received a report dated 6/12/12 from the Addl. D.G. of Police & Inspector General of Prisons, Ahmedabad., Gujarat and a reply dated 17/1/13 from the Secretary, Home Department, Government of Gujarat to the show cause notice. The reports mention that the alleged victim Rajesh Bhatti was released from jail on 1/4/11 and was finally acquitted by the court. During the departmental enquiry against the alleged erring public servant, the statement of the victim was recorded and he did not corroborate the allegations of the complainant. The victim stated that he has not given any complaint. He was not beaten by Subedar Shri Hamirbhai A. Balasara.

concludes that the allegations against the erring public servant were not proved and a N. C. complaint has been filed in the FIR registered against the Subedar Shri Hamirbhai In view of these circumstances, when the victim has exonerated Subedar Shri Hamirbhai A. Balasara, the question of violation of his human rights does not arise and thus it is not a fit case for paying monetary compensation to the victim.

The Commission has considered the material placed on record and observes that it is admitted that the victim Rajesh Bhatti was in prison w.e.f. 22/3/11 to 1/4/11. The medical reports enclosed with the report dated 6/12/12 from the Addl. D.G. of Police, & Inspector General of Prisons, Ahmedabad, Gujarat mentions that on the statement of the victim against Subedar Shri Hamirbhai A. Balasara he was provided medical treatment. On the statement of the alleged victim N.C. Crime No. 34/11 u/s 323 IPC was registered against Subedar Shri Hamirbhai A. Balasara. The report dated 29/10/2012 from the Addl. D.G. of Police, Gujarat mentions that the Enquiry Officer has submitted his preliminary report which revealed that the allegations against Subedar Shri Hamirbhai A. Balasara of beating the UTP were found to be partially correct.

In view of the aforesaid circumstances, the Commission is of the view that even if the statement of the alleged victim exonerating Subedar Shri Hamirbhai A. Balasara is accepted, there is no material placed on record by the State to show that the victim had suffered injuries prior to his admission to jail. Thus, the victim had prima facie suffered injuries in jail and the State has been unable to protect him and thus his human rights were violated for which the State is liable. The Commission, therefore, recommends to the Chief Secretary, Government of Gujarat to make payment of Rupees 10,000/- as monetary compensation to be paid to the victim Rajesh Bhatti. The proof of payment to be submitted within 6 weeks.

It is therefore, requested that the compliance report in the matter be sent to the Commission latest by 13/04/2013, so that the same could be placed before the Commission.

Yours faithfully,

ASSISTANT REGISTRAR (LAW)

CC To.

**TEJANG CHAKMA, COMPLAINTS
COORDINATOR
NATIONAL CAMPAIGN FOR PREVENTION OF
TORTURE, C-3/441-C, JANAKPURI,
WEST DELHI, DELHI. 110058**

Asst. Registrar (Law)