

NATIONAL HUMAN RIGHTS COMMISSION
(L A W D I V I S I O N)
MANAV ADHIKAR BHAWAN, BLOCK-C, G.P.O. COMPLEX,
INA, NEW DELHI- 110023

Dated 31/10/2016

Case No. 5/14/12/2010-AFE

To

SUHAS CHAKMA, DIRECTOR
NATIONAL CAMPAIGN FOR PREVENTION OF
TORTURE, C-3/441-C, JANAKPURI,
WEST DELHI, DELHI.

23 NOV 2016

Sir/Madam,

With reference to your complaint dated 05/02/2010, I am directed to say that the matter was considered by the Commission on 29/09/2016. The Commission has made the following directions.

The Joint Secretary, Home Department, Govt. of Manipur vide communication dated 2.8.2016 has submitted the proof of payment of compensation of Rs.5.5 Lakhs paid to the NoK of deceased Thockhom Inao @ Herojit. Hence, the case is closed.

This is for your information.

Yours faithfully,



ASSISTANT REGISTRAR(LAW)

Case No.5/14/12/2010-FE/DB-I
NATIONAL HUMAN RIGHTS COMMISSION
(Law Division-F.C.Branch)

A.K. Parashar
Joint Registrar (Law)
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Manav Adhikar Bhawan
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SHOW-CAUSE NOTICE

To

The Chief Secretary,
Govt. of Manipur,
Imphal -- 795 001.

WHEREAS the Commission received a complaint dated 05.02.2010 from Shri Suhas Chakma, Director, National Campaign for Prevention of Torture seeking intervention of the Commission against the extra-judicial killing of Thokchom Inao @ Herojit by the combined team of Thoubal District Police Commandos and 23rd Assam Rifles in the area of Lilong Police Station on 31st July, 2009. It was alleged in the complaint that Tokchom Inao was dragged out of the house of his sister at Pangaltabi Awang Leikai by the police commandos around 6.30 P.M. on 30th July, 2009 and taken away in a white Maruti Gypsy. On the next day, the family came to know from local newspapers that Tokchom Inao @ Herojit had been killed in an encounter at Waithou village. The father of the deceased tried to lodge a complaint at Sugnu Police station but the officer-in-charge refused to receive the complaint. It was also stated in the complaint that Herojit had been arrested in 2008 by Assam Rifles on the charge of being a member of proscribed United National Liberation Front (UNLF). He was, however, released on bail by the Chief Judicial Magistrate, Thoubal and thereafter he had been regularly reporting at the Police Station as directed by the Magistrate. He last reported at the PS on 26th July, 2009.

AND WHEREAS pursuant to the directions of the Commission, relevant reports have been received from the concerned authorities.

AND WHEREAS the Commission while considering the matter on 13.05.2015 inter alia observed directed as under:-

"Since Manipur Police Commandos and Assam Rifles were both involved in the alleged encounter, the Commission sought reports from the Government of Manipur and also from the Ministry of Home Affairs, Government of India.

Inspector General of Police (HR), Manipur forwarded a report of SSP, Thoubal District. According to the report, information was received by CDO Unit on 30th July, 2009 at about 11.25 P.M. regarding the presence of armed cadres of United National Liberation Front in the general area of Waithou village. A combined team of CDO, Thoubal and troops of 28th Assam Rifles rushed to the area on receiving the information. They conducted cordon and search operation at selected houses. During the operation, the combined team observed two or three persons moving towards Waithou hill tracks in a suspicious manner. The combined team asked them to stop for verification. They did not stop and started firing towards the combined team. The security forces retaliated after taking position. Thus, an encounter ensued for about eight minutes. After the firing stopped, search of the area was made and a bullet-ridden dead body was found. One 9 mm caliber pistol, 3 live rounds and 3 empty cases were also recovered from the encounter site. The dead body was later on identified as that of Thokchom Inao @ Herojit.

The Ministry of Home Affairs also forwarded a report of DG, Assam Rifles vide communication dated 27th August, 2010. The allegations made by Shri Suhas Chakma were denied. It was submitted that the operation was jointly conducted by troops of 28th Assam Rifles led by Major M. Ravi Chandran and a team of Thoubal Police Commandos on 30th July, 2009. The terrorists on being challenged by the combined team started indiscriminate firing due to which the combined team retaliated during which one of the terrorists was killed and the other managed to escape.

The post-mortem report mentioned the following injuries:-

- (i) One bullet entry wound (contact shot) 8 cm from midline, 112 cm above left heel passing through the abdominal organs and exiting through a wound of 9 cm from the midline, 1.09 cms above left heel;
- (ii) One bullet entry wound on the right and backside of the body; 129 cm. above right heel and exiting 150 cm above heel;
- (iii) One bullet entry wound (contact shot) on the right and back side of the body, 106 cm above right heel passing through the abdominal organs and exiting through a wound of 106 cm. above right heel.

District Magistrate, Thoubal conducted an inquiry into the incident and analyzed the bullet entry wounds mentioned in the PMR. He observed that the bullet wounds no. (i) and (iii) were possible when the shooter was very close to the deceased and the bullet wound number (ii) was possible when the shooter was not in close proximity of the victim. Based on the post-mortem findings,

the Enquiry Magistrate held that the deceased was struck by bullet no. 2 when he tried to flee. This bullet passed through right lung and the deceased would have been unable to flee fast enough from the shooters. The persons standing by him had fired the two contact bullets - No. 1 & 3 -killing him instantaneously.

The DM also took note of the antecedents of deceased Herojit. The deceased had been arrested by 21 Assam Rifles personnel in July 2008 on the charge of being a member of UNLF and a case under FIR No. 128 (7) 08 was registered against him at P.S. Sungnu. He was released on bail by the Judicial Magistrate and thereafter he had been presenting himself every week at Sugnu P.S. and before 21st Assam Rifles on a fortnightly basis. With this history in mind the DM observed thus:-

"It would not however be wrong to reason that since he was presenting himself on a weekly basis before the Police authorities on a fortnightly basis before the 21st Assam Rifles, the likelihood of his engaging himself in destructive/illegal activities after his bail, is relatively low, whatever may be his antecedents".

The relatives of the deceased stated during Magisterial Enquiry that Herojit had been dragged out the house of his sister at Pangaltabi Awang Leikai, where he had been staying on 30th July, 2009 at about 6.30 P.M. The District Magistrate believed this version to some extent. He concluded that the deceased had been abducted from the house of his sister by some persons in white Maruti Gypsy but he refused to believe that the abductors were police Commandos. He concluded thus:-

"On examination of all evidences made available, it is highly likely that he was killed by the same unidentified armed persons who had abducted him at around 9 P.M. on 30th July, 2009 from his sister's residence at Pagantabi Awang Leikai and brought him to Waithou. The identity of his abductors however cannot be pinpointed due to lack of sufficient evidence."

While coming to the conclusion that the deceased Herojit had been killed by unidentified persons who had abducted him from his sister's house, the DM lost sight of the fact that the local police and the Assam Rifles had both admitted that they had killed him in an encounter. DM mentioned in the enquiry report that the distance from Chairel and Waithou is about 50 KM by road. He observed that:

"His abductors had in all likelihood taken Thokchom Inao @ Herojit to Waithou in a vehicle".

If we consider the findings of DM in conjunction with the police story of encounter, it will not be difficult to come to a conclusion that the deceased had been abducted from his sister's house by Police Commandos and taken to Waithou in a Gypsy and eliminated there in the guise of an encounter. The contact wounds mentioned in the post-mortem report also indicate that he had been first captured and then shot dead.

...3..

In view of the above discussion, we are convinced prima facie that Tokchom Inao @ Herojit was eliminated in a fake encounter by Thoubal Police Commandos with the assistance of 28 Assam Rifles. Notice u/s 18 of the Protection of Human Rights Act, 1993 be, therefore, issued to the Government of Manipur requiring it to show-cause why monetary relief of Rs.5.00 lakhs be not recommended to be paid to the NOK of the deceased. Chief Secretary, Government of Manipur shall submit reply to the show-cause notice within six weeks."

NOW THEREFORE you are hereby called upon to show cause, if any, by 10.08.2015 as to why monetary relief of Rs. 5 lakhs be not recommended to be paid to the NOK of the deceased Thokchom Inao @ Herojit u/s 18 of the Protection of Human Rights Act, 1993

TAKE FURTHER NOTICE that in default, the Commission may proceed to take such action as it deems proper.

GIVEN UNDER MY HAND AND THE SEAL of the Commission, on this day, the 1st July, 2015.



(BY ORDER)
Alhacchar
JOINT REGISTRAR (LAW)

Copy to:

✓
Shri Suhas Chakma,
Director,
National Campaign for Prevention of Torture
C-3/441-C, Janakpuri,
New Delhi – 110 058.

Case No.5/14/12/2010-FE/DB-I
NATIONAL HUMAN RIGHTS COMMISSION
(Law Division-F.C.Branch)

A.K. Parashar
Joint Registrar (Law)
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AND WHEREAS pursuant to the directions of the Commission, relevant reports have been received from the concerned authorities.

AND WHEREAS the Commission while considering the matter on 13.05.2015 inter alia observed directed as under:-

“Since Manipur Police Commandos and Assam Rifles were both involved in the alleged encounter, the Commission sought reports from the Government of Manipur and also from the Ministry of Home Affairs, Government of India.



National Human Rights Commission, New Delhi, India

FC-21/01/47

Case Details of File Number: 5/14/12/2010-FE

Diary Number 14821
Name of the Complainant SUHAS CHAKMA, DIRECTOR
Address NATIONAL CAMPAIGN FOR PREVENTION OF TORTURE, C-3/441-C,
 JANAKPURI,
 WEST DELHI , DELHI
Name of the Victim THOKCHOM INAO @ HEROJIT S/O THOKCHOM NIMAI SINGH
Address R/O CHAIREL AWANG LEIKAI, PS- SUGNU,
 THOUBAL , MANIPUR
Place of Incident WAITHOU
 THOUBAL , MANIPUR
Date of Incident 7/31/2009

**Direction issued by the
Commission**

Director, National Campaign for Prevention of Torture, New Delhi in a complaint dated 5.2.2010 stated that one Thokehom Inao @ Herojit was killed allegedly in a fake encounter by a joint team of Thoubal District police Commandos and 23rd Assam Rifles in Thoubal District of Manipur on 31.7.2009. The complainant further alleged that the victim was draged from his house and was killed in a fake encounter and the matter was reported to the police but not FIR was registered. He has prayed for intervention of the Commission. He has requested the Commission to issue directions to the state government to order a judicial enquiry into the incident, to submit the Post Mortem-Report of the deceased in conformity with the guidelines of the Commission, action against the erring police officials and to award interim compensation to NOK of the deceased. Upon perusal, the Commission vide proceedings dated 04/03/2010 directed as under:- "The Secretary, Home, Union of India, New Delhi, the Director General of Police, Manipur, District Magistrate, and Senior Superintendent of Police, Thoubal District, Manipur are directed to take appropriate action with regard to the investigation of the case as per guidelines laid down by the Commission in the letter dated 2nd December, 2003 of the Chairperson, NHRC to the Chief Ministers of all States. Magisterial Inquiry Report, Post Mortem Report alongwith report of independent investigation may be submitted to the Commission within eight weeks." Reports are awaited. DR (Law) to write and remind Secretary, Home, Union of India, Director General of Police, Manipur and District Magistrate/ Senior Superintendent of Police, Thoubal, Manipur to submit magisterial Inquiry Report, Inquest Report, Post Mortem Report alongwith report of independent investigation within six weeks.

Action Taken

Status on 5/16/2011

Additional Information Called for (Dated 5/28/2010)

Response from concerned authority is awaited.

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@hub.nic.in

Disclaimer: Neither NHRC nor NIC is responsible for any inadvertent error that may have crept in the Complaint Information being published on NET. The Complaint Information on net is for immediate information to the Complainants/ Victims.