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Case No. 191/11/13/2012
NATIONAL HUMAN RIGHTS COMMISSION
(L A W D I V I S I O N)
* * *
FARIDKOT HOUSE
COPERNICUS MARG, NEW DELHI - 110 001

Dated 12-Jul-13

15 JUL 2013

To
THE CHIEF SECRETARY
GOVT. OF KERALA, THIRUVANANTHAPURAM

Sub : Complaint from

TEJANG CHAKMA, COMPLAINANT'S
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 12-Jul-13 and the Commission has directed as follows.

The complainant has alleged that inhuman and degrading treatment was meted out to an inmate named Vinu at Viyyur Central Jail by the Jail Head Warder named Vincent on 19.5.2012. It is stated that the Head Warder was in an inebriated state and he forcibly compelled the prisoner to consume his vomit and spew. The complainant has requested for intervention of the Commission in the matter.

In response to the Commission's directions, a report dated 8.10.2012 has been received from Addl. Director General of Police (Prisons). It is reported that on enquiry the allegation of compelling the prisoner to consume vomit and spew could not be substantiated. However, the allegation that he was beaten by the Head Warder Sri Vincent has been found to be true. The said Head Warder has been transferred from Central Prison, Viyyur to Open Prison, Cheemeni on disciplinary ground.

The Commission has considered the report. The report accepts that the prisoner was beaten by the Head Warder of the jail. It means that the prisoner was subjected to physical torture in custody. The subsequent transfer of the Warder on disciplinary ground further substantiates that the use of force in this case was unjustified. The Commission therefore, found that the act of the Jail Warder was an act of violation of human right to life and the State is liable to compensate the victim for the same.

The Commission, therefore, directed that a notice be issued to the State Government of Kerala through its Chief Secretary to show cause in 8 weeks as to why monetary relief u/s 18(a)(i) of the Protection of Human Rights Act be not given to the alleged victim Vinu for violation of his human rights by the Jail Warder.

In pursuance thereof, the Addl. Secretary, Home (V) Department, Government of Kerala, Thiruvananthapuram has sent a report dated 21.1.2013 on behalf of the Principal Secretary that the jail warder in question had already been punished by transferring him to a distant place and hence, the Commission may drop the proceedings.

Even if it is assumed that the prisoner was not compelled to consume vomit and spew, it was proved in the enquiry that he was subjected to physical torture causing injuries to the victim. No explanation is

been offered by the State Government as to how and under what circumstances, the jail warder had beaten the prisoner. There was no justification of any kind for the physical torture of the prisoner by the jail warder. The Government itself found it necessary to transfer Sri Vincent on disciplinary ground. It proves that the physical torture of the prisoner was unjustified. It is unfortunate that the disciplinary authority took such a lenient view in the matter and the delinquent officer was allowed to escape with a transfer.

In the above circumstances the Commission recommends u/s 18(a)(i) of the Protection of Human Rights Act, 1993 to the State Government of Kerala through its Chief Secretary to pay a sum of Rs. 50,000/- (Fifty thousand) as monetary relief/compensation to the convict prisoner No.9529 Vinu aged 33 years r/o Idukki of Central Jail Viyyur, Trishur.

A report of compliance along with payment of proof be sent within six weeks.

It is therefore, requested that the compliance report in the matter be sent to the Commission latest by 30-Aug-13, so that the same could be placed before the Commission.

Yours faithfully,

ASSISTANT REGISTRAR (LAW)

CC To.

NNNN
NNNN

19/11/13/12

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

Subjto
Asstt. Registrar (Law)