

**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 25/04/2017

Case No. 7/15/1/2011-AFE

To

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

- 2 JUN 2017

Sir/Madam,

With reference to your complaint dated 28/01/2011, I am directed to say that the matter was considered by the Commission on 11/04/2017. The Commission has made the following directions.

*Vide its proceedings dated 02.08.2016, the Commission recommended to the Chief Secretary, Government of Meghalaya to pay a sum of Rs.Five Lakhs as monetary compensation to the next of kin of deceased Washington N. Marak and submit compliance report along with proof of payment to the Commission within a period of eight weeks.*

*Pursuant to the directions of the Commission, Under Secretary to the Govt. of Meghalaya, Political Department vide communication dated 27.03.2017 has forwarded a copy of receipt regarding payment of a sum of Rs. 5.00 lakh to the next of kin of deceased Washington N. Marak.*

*In view of compliance of recommendation of the Commission, the case along with liked files i.e. 6/15/1/2011-ED, 7/15/1/2011, 11/15/1/2011-AFE, 4/15/1/2011 & 12/15/1/2012 is closed.*

This is for your information.

Yours faithfully,

  
ASSISTANT REGISTRAR(LAW)

# National Human Rights Commission

New Delhi, India

## Case Details of File Number: 2/15/1/2011-AFE

**Diary Number** 113698  
**Name of the Complainant** DINO D.G. DYMPEP  
**Address** MEGHALAYA PEOPLES HUMAN RIGHTS COUNCIL, MAWLAI MAWROH, SHILLONG,  
 EAST GARO HILLS , MEGHALAYA  
**Name of the Victim** WASHINGTON MARAK  
**Address** RONGREKGRE VILLAGE, WILLIAM NAGAR,  
 EAST GARO HILLS , MEGHALAYA  
**Place of Incident** WILLIAM NAGAR  
 EAST GARO HILLS , MEGHALAYA  
**Date of Incident** 1/26/2011

### Direction issued by the Commission

An intimation dated 27.12.2011 was received from SP, East Garo Hills, William Nagar regarding an incident of encounter. It was reported that on 26.1.2011 at about 02.00 A.M., a police party was deputed to Rongrekgre area based on reliable information that heavily armed GNLA militants numbering about forty were camping in the jungle at the foothills of Durama range near Rongrekgre village and were scheduled for a meeting with ULFA leaders. At about 04.10 A.M., just before reaching Rongrekgre village, a group of five to six militants suddenly fired at the police party with AK rifles from a small house near the road side. The police party retaliated the fire and it resulted in the death of one armed militant namely Washington N Marak, aged forty years, S/o Late Bogon Ch. Momin of Chachatgre village. One AK rifle in a cocked position with one round in its chamber and three rounds in the magazine was recovered from his possession. Further, the police party proceeded ahead to the target area near Rongrekgre village where the GNLA militants attacked them with rocket launchers, LMG, AK Rifles, grenades, etc., and the exchange of fire between the police and the militants lasted for about 20 minutes. The police recovered a huge cache of explosives, wireless set, bullet proof jackets, magazines of LMG and pistol, incriminating documents. A criminal case No.9(1)2011 was registered at P.S. Williamnagar after the incident. Meghalaya People's Human Rights Council, Shri Suhas Chakma of National Campaign for Prevention of Torture, Shri Imtiaz Khan of Manvadhikar and Dr.Lenin of PVCHR also made complaints regarding the same incident alleging that the encounter in which Washington N. Marak was killed, was fake. SP, East Garo Hills, Williamnagar vide letter dated 18.4.2011 submitted an investigation report which revealed that four persons namely Lathing R. Marak, Paltil C. Marak, Milly C. Marak and Paper R. Marak were apprehended from the same small house from where some militants had allegedly fired at the police party at about 04.10 A.M. . Although the police claimed that these persons and deceased Washington N. Marak had links with the GNLF militants, none of them was prosecuted and all of them were released. Shri Ram Singh, SDO, Resubelpara who conducted an inquiry regarding the incident observed in the inquiry report that there was an outcry from various NGOs and villagers regarding the innocence of the aforesaid mentioned four persons. The police station at Williamnagar was gheroed by the villagers and, therefore, the apprehended persons were released on personal bond. If any of these four persons had been involved in militant activity, the police would not have released them simply because the NGOs and villagers had protested against their arrest. It can, therefore, be safely presumed that neither Washington N. Marak nor any of the four apprehended persons had any link with the terrorists. The statements of the four arrested persons namely Paper R. Marak, Milly C. Marak, Paltil C. Marak and Lathing R. Marak were recorded by the Magistrate. All of them stated that on the fateful night deceased Washington N. Marak was sleeping with Paper R. Marak and Milly C. Marak in one room and Paltil C. Marak was sleeping in the other room of the house. The police suddenly forced entry into the house at 04.30 A.M. and tied down Paper R. Marak, Milly C. Marak and Paltil C. Marak. Washington N. Marak was taken out and shot dead. Their testimony is consistent. None of them stated at the inquiry that Washington N. Marak had any weapon. The Magistrate also did not care to question any one of them in this regard. Mading R. Marak, the owner of the house from where the deceased Washington N. Marak and his companions allegedly fired at the police party at 04.10 A.M., also appeared before the Magistrate. He stated that Washington N. Marak used to work with him as a part time labourer. He corroborated the testimony of the four apprehended persons and said that Washington N. Marak was sleeping along with three of them in his house on the night of occurrence. Abang G. Momin, Nokma (Village Head) of Rongregre Village also made a statement before the Magistrate. He stated that Washington N. Marak used to work as a mason and he had a MNREGA job card. His testimony also negates the possibility of Washington N. Marak being a militant. Shri Ram Singh, SDO concluded after of the inquiry that - "It seems highly unlikely that the encounter was fake and staged or intentional." The conclusion of the Magistrate is, however, based on surmises and conjectures. He ignored the testimony of independent witnesses and also the forensic report of hand wash which indicated that Washington N. Marak had not used any firearm. While believing the police version of encounter, the Magistrate strangely held that the claim of right of private defence by the police has to be established after a thorough investigation by CB CID. If the Magistrate was convinced that the encounter was genuine, he need not have referred the issue of private defence to CB CID. It may also be mentioned that SP, East Garo Hills vide communication dated 18.2.2011 requested Dy. Inspector General of Police (W/R) Meghalaya to transfer case No.9(01) 2011 of P.S. Williamnagar to CID. But the case was never entrusted to CB CID. Addl. DGP, CID, Meghalaya has confirmed to the Commission vide his letter dated 08.3.2011 that the case was not transferred to CID for investigation. If the State Government was really serious to find out the truth, it should have had no hesitation in transferring the case to CB CID. The post mortem report mentions two firearm entry wounds - one on the upper part of the back of neck and the other on the middle of left ear. The locus of injuries also indicates an intention to kill. On careful examination of the records, we find credible evidence to show that deceased Washington N. Marak was a mason having job card of MNREGA. He had no criminal history. There is no evidence to indicate his involvement with any terrorist activity. The testimony of the owner of the house and the Nokma of the village shows that he was sleeping in the house on the fateful night of occurrence and had no weapon. His hand wash was taken during investigation, but no residue of gun powder was detected during examination in the laboratory. The forensic report thus shows that he had not used any weapon. All these facts persuade us to disbelieve the police version. A notice be, therefore, issued to the Government of Meghalaya requiring it to show cause why monetary relief u/s 18 of the Protection of Human Rights Act, 1993 be not recommended to be paid to the next of kin of deceased Washington N. Marak. Chief Secretary, Govt. of Meghalaya shall respond to the show cause notice.

within six weeks.

Action Taken

Status on 5/24/2014

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

**Tel.No. 24651330 Fax No. 24651329 E-Mail: covdnhrc[at]nic[dot]in, ionhrc[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,

**फोन नं. 24651330 फैक्स नं. 24651329 ई-मेल : covdnhrc[at]nic[dot]in, ionhrc[at]nic[dot]in**

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