

National Human Rights Commission

Diary No	156640/CR/2017	Case / File No	4733/18/13/2017-AD
Victim Name	BISWANATH BEHERA	Registration Date	27/10/2017

Action List (Click on Action given in blue color to view details)

Action No.	Action	Authority	Action Date	Due Date	Completion Date
3	Show Cause Notice (Other Case)	THE CHIEF SECRETARY GOVT. OF ODISHA	05/12/2019	17/02/2020	
2	Additional Information Called for	SAMBALPUR, ODISHA	13/08/2019	13/08/2019	
1	Sent to DG(I), NHRC	SAMBALPUR, ODISHA	03/11/2017	12/01/2018	05/08/2019

[Expand All Action List](#)[Action](#)**Action : Show Cause Notice (Other Case)(Action No 3)**

Action Date	05/12/2019	Due Date	17/02/2020	Completion Date	
Authority	THE CHIEF SECRETARY, GOVT. OF ODISHA				
Proceeding	<p>The Commission received a complaint dated 27.9.2017 from Shri Amal Kanti Chakma, Complaint's Coordinator, Asian Centre for Human Rights, New Delhi about the death of one Biswanath Behera in police custody of P.S. Hirakud, Sambalpur District, Odisha on 23.9.2017. It was alleged in the complaint that while the deceased was in the police custody, he was subjected to physical torture as a result of which he died. The complainant, therefore, urged the Commission to intervene in the matter.</p> <p>The Commission took cognizance of the complaint vide its proceedings dated 3.11.2017 and sought requisite reports from the authorities concerned.</p> <p>Pursuant to the directions of the Commission, post mortem report, inquest report, histopathology report, viscera report, etc., have been received. No magisterial enquiry of the incident was conducted as it was claimed by the police that the death was not taken place in police or judicial custody.</p> <p>SDPO, Burla-cum-DSP, HSF, Hirakud conducted an enquiry about the alleged custodial death of Biswanath Behera and submitted a detailed report dated 20.1.2018. The report revealed that on the occasion of celebration of Viswakarma Puja in the evening of 17.9.2017, the police received an information about pelting of stones by one Bisu @ Biswanath Behera of Kalupada, Hirakud at the people near ITI Colony Chowk. The police went to the spot and brought Biswanath Behera to Hirakud P.S. Next day, Biswanath Behera complained of pain on his foot due to an old injury. He was sent to CHC Hirakud</p>				

for medical examination and treatment. His father was thereafter called to the police station and allowed to take his son after giving in writing that he is taking his son in good health. After two days, Biswanath Behera told his father that he was physically assaulted by one Constable on 17.9.2019 when he was in the police custody. The report also stated that the deceased was addicted to alcohol and drugs and on 17.9.2017 in the evening he was creating nuisance, abusing general public and pelting stones at ITI chowk and Kalupada Chowk in an inebriated condition and was brought to police station for safety as there was a tussle between some residents of Hanuman Mandir Colony and in that process he fell down on the ground several times and with lot of difficulties he was controlled. On 18.0.2017, when Biswanath Behera complained of pain in his leg, he was taken to the hospital for treatment and thereafter, his father was called and allowed to take his son in good health. The report further stated that Constable No.642 R.Ch. Mohanty was placed under suspension and departmental proceedings had been initiated against him. One month notice of discharge was also served to H.G. Rajendra Pradhan (T) IIC Kuchinda P.S and a criminal case No.163/2017 u/s 302/34 has also been registered at P.S. Hirakud against the accused police officials on the complaint of the father of the deceased.

The post mortem report of the deceased revealed that apart from 5 abrasions and contusions on lower half of left chest, left lateral buttocks with black scabs at places, left buttock –greenish in colour, right thigh, right leg below knee, laceration of 1.5 x 1 cm on dorsum of left second toe and soft tissue deep without any presence of bleeding margins irregular and partially healed. The injuries were ante mortem in nature and could have been caused due to hard and blunt impact and contact with rough surface or object are of 5 to 7 days duration except injury No.6 which is more than 7 days duration. The cause of death was opined to be due to myocardial infarction with tubular necrosis of kidney with renal failure. No poison was detected in the viscera.

No ethyl alcohol, methyl alcohol, barbiturates, benzodiazepine group of drugs, insecticidal, alkaloidal, rodenticial and metallic poison was detected in the examination of viscera of the deceased as per the State Forensic Science Laboratory, Rasulgarh, Bhubaneswar.

Commission has carefully considered all the material available on record. Biswanath Behera was brought to police station in the evening of 17.9.2017 as he was creating nuisance in the public place. Next day, he complained of pain in his leg and was taken to hospital for treatment. One the same day itself, his father was called at the police station and allowed to take his son with him after giving in writing that he is taking his son in good health. After two days, Biswanath Behera tells his father that on 17.9.2017 when he was in the police custody, one Constable physically assaulted him. Later on, after 5 days i.e. on 23.9.2017 of his release from police custody, Biswanath Behera died. The abrasions and contusions found on the body of the dead during post mortem indicate that they were 5 to 7 days old and caused by due to hard and blunt force and contact with rough surface. In the inquest, it has been opined that the death was caused due to the injuries sustained by the deceased. The Commission also notes that on the complaint of the father of the deceased, a criminal case No.163/2017 u/s 302/34 IPC was registered against the police officials. Constable Rama Mohanty was suspended and departmental enquiry has been initiated against him and one month's notice of discharge has been served to HG Rajendra Pradhan, another accused. From the above facts, it appears that Biswanath Behera was subjected to physical torture in police custody which resulted in his death. Thus, the Commission is of the view that the human rights of the deceased Biswanath Behera were grossly violated and for this violation of human rights, the State of Odisha is vicariously responsible.

The Commission, therefore, issues notice u/s 18 of the Protection of Human Rights Act, 1993 to the Chief Secretary, Government of Odisha to show cause within six weeks as to why monetary compensation of Rs. Five Lakhs may not be recommended to be paid to the next of kin of deceased Biswanath Behera for such violation of human rights.

Put up after six weeks.

Complaint

Diary No	156640/CR/2017	Section	M-5
Language	ENGLISH	Mode	SPEED POST
Received Date	04/10/2017	Complaint Date	03/10/2017
Gist	Complaint is against alleged torture to death of named victim by named accused head constable. In the complaint it has been written that police is alleging that he was released next day of detention after medical examination. But the family of victim is alleging that he died in police custody as he was subjected to torture.		

Victim

Victim Name	BISWANATH BEHERA	Gender	Male
Religion	Unknown	Cast	Unknown
Address	R/O KALUPUDA, HIRAKUD TOWN		
District	SAMBALPUR	State	ODISHA

Complainant

Name	AMAL KANTI CHAKMA		
Address	ASIAN CENTRE FOR HUMAN RIGHTS, C-3/441 C , JANAKPURI , NEW DELHI		
District	NEW DELHI	State	DELHI (0)

Incident

Incident Place	HIRAKUD POLICE STATION, SAMBALPUR	Incident Date	23/09/2017
Incident Category	ALLEGED CUSTODIAL DEATHS IN POLICE CUSTODY		
Incident District	SAMBALPUR	Incident State	ODISHA
Incident Details			

[Cause List](#)

List No	Case / File No	Listing Date	Category
1	4733/18/13/2017-AD	03/01/2018	COMPLIANCE REPORT CASES