

BIHAR HUMAN RIGHTS COMMISSION
9, Bailey Road, Patna – 15

File No **BHRC/COMP.1751/11**

Case of **ANUJ KUMAR SINGH**

Applicant, Anuj Kumar Singh, is a salesman in Foreign Liquor Shop No.30 at Rampur road, Patna. He has approached the Commission complaining of the incident which happened in the evening of 11th July 2011. It is said that at about 6 PM, a patrol vehicle of Bahadurpur P.S. came to the shop and forced the customers to leave. The officer-incharge demanded the shop license. Saying that the license was invalid he got the shop closed and took the applicant to Bahadurpur P.S. The SHO talked to the father of the licensee, Nawal Kishore Singh, on phone but was not convinced. After some time, on information to the Assistant Commissioner of Excise, Patna, S.I. Excise Rameshwar Yadav came to the police station. He told the SHO that the license was valid and genuine. At about 9:30 PM the applicant was allowed to leave the police station. During his stay at the police station, he was ill-treated. The behavior of the police towards the customers earlier in the shop was also highly uncivilized. According to the applicant, the incident caused him mental torture and humiliation. Also, it gave a wrong message about the reputation of the shop and it suffered financial loss.

According to the applicant further, in the year 2008-09 also, he had been subjected to similar treatment by the police of Bahadurpur Police Station when as salesman of Foreign Liquor Shop No.6 New Market Patna, he was kept in detention for about eight hours at the police station. He made a complaint to the National Human Rights Commission and the NHRC directed Sr.S.P. Patna to take appropriate action.

Report was called from Sr.S.P. Patna and, later, notice was issued to the then SHO Bahadurpur P.S, S.I. Ranjit Kumar, in terms of section 16 of the Protection of Human Rights Act. Sri Ranjit Kumar filed his written defence and the matter was finally heard on 27.11.2012 in his and applicant's presence. Sri Chandan Kumar Kushwaha, A.S.P. Patna City was also present on behalf of Sr.S.P. Patna.

In response to the observations of the Commission that the police had no authority to inspect liquor shop and inquire into the validity of liquor license except for the purpose of investigation or to check criminal activities, and therefore the impugned action of the police was totally illegal and without jurisdiction, Sri Ranjit Kumar referred to section 23 of the Police Act. Section 23 of the Police Act empowers the police to visit any liquor shop but only "for

purposes mentioned in the section". The section does not authorize the police to visit and inspect the liquor shop to find out the validity of liquor license or to see that the business was being carried on in accordance with law. It may be mentioned here that the liquor shop in question had an 'on' license which means that liquor could not only be sold but also consumed in the shop.

On the direction of the Commission the Station Diary of the relevant period was produced. The relevant entry (no.342) does not mention receipt of any information about any offence being committed or any criminal activity going on in shop premises. The entry on the contrary mentions that the police party went to "check" the shop on the direction of the SHO. It is thus clear that the police visited the shop to 'inspect' (check) the shop without any basis viz. apprehension/information about any criminal act being committed there, and the impugned action was therefore totally illegal and without jurisdiction.

The applicant has relied on an order of the Excise Commissioner dated 14.8.2009 in the case of one Siddhartha Kumar holding that the police has no power to enter and inspect any license premises without the prior approval of the district Collector. If the police is of the view that there are irregularities, they can inform the Collector or the Assistant Commissioner of Excise for appropriate action against the licensee.

As a matter of fact, as rightly submitted by the applicant, even where there are irregularities or illegalities, action can be taken against the licensee and not against the employee i.e. the salesman. It may be mentioned that as per the excise law, name of the salesman is required to be mentioned in the body of the license, and it is the case of the applicant that his name was mentioned as such in the license. The applicant, in the circumstances, lamented that he was subjected to harassment and humiliation only because he was a poor employee which was his only sin. There being no complaint and allegation whatsoever against him, there was no occasion or justification to take him to the police station and subject him to mental torture and harassment.

The Commission finds the grievance of the applicant to be well-founded. The Commission is satisfied that the applicant suffered violation of his human rights at the instance of the police, particularly S.I. Ranjit Kumar for which he is entitled to be compensated by him.

In the facts and circumstances, the Commission would direct S.I. Ranjit Kumar, the then SHO Bahadurpur P.S. – at present S.I. Phulwarisharif P.S. – to pay sum of rupees ten thousand to the applicant as compensation. In order to facilitate compliance, the Commission would direct Sr.S.P. Patna to deduct the amount from the salary of S.I. Ranjit Kumar and pay the same to the applicant.

The Commission is also of the view that for his impugned acts disciplinary action should be taken against S.I. Ranjit Kumar, and it would accordingly direct Sr.S.P. Patna to initiate departmental proceeding and take it to its logical conclusion, in accordance with law.

Compliance report be submitted to the Commission by 1st February 2013.

Copy of this order may be sent to Sr.S.P. Patna.

Copy may also be sent to the applicant and S.I. Ranjit Kumar, Phulwarisharif P.S. Patna.

Date: 30.11.2012

Justice S.N. Jha
Chairperson