

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

File No **BHRC/COMP.3452/2011**

Case of **Premal Mahto**

Shri Premal Mahto, V. - Ayodhya Nagar, Kasha, P.S. - Gol Bazar, District - **Sirha (Nepal)** filed a petition in BHRC (Dec, 2011) alleging that Shri Sanjay Kumar, the then **SHO** of Jainagar Police Station (Madhubani), influenced by a handsome pay off by Nepal police, **arrested** his brother Ram Narayan Mahto @ Manager Mahto, the **National President of Madhesh Rashtra Jantantrik Party (Nepal)** from a tea shop in Jainagar village on 18th July 2009 along with his motorcycle and handed him over to **Nepal Police illegally** where he was liquidated in a **police encounter** in Hakpara, P.S. Sirha, Nepal.

2. The Commission sought a response from **Zonal IG, Darbhanga**. I.G., Darbhanga conducted an in-depth enquiry into the allegations and submitted a detailed report to the Commission. The petitioner deposed before the IG that soon after the arrest he filed a petition before **Human Rights Commission in Nepal** and tried to lodge a case in Nepal Court but to no avail. Finding no alternative he approached the BHRC.

3. It was found by IG, Darbhanga that Ram Narayan Mahto @ Manager Mahto @ Manager Singh was arrested on 18th July, 2009 by the then SHO of Jainagar PS from the tea stall of Shri Ram Lakshman Yadav at Lakshmi Chowk (about 2 Kms. from Jainagar PS) along with his motorcycle and a close friend Surendra Kumar Singh besides two others were also arrested and two motorcycles seized. They all were brought to Jainagar Police Station. All except Ram Narayan Mahto were let off after 2 hours. Ram Narayan Mahto @ Manager Mahto **was illegally handed over to the escort of Nepal Police which immediately visited Jainagar Police Station**. Ram Narayan Mahto @ Manager Mahto was reportedly killed in a police encounter **in Nepal** the next day. His dead body was identified and cremated by his brother (the petitioner). I.G., Darbhanga also found some **manipulations in the Station diary** of PS to suppress detection.

4. According to IG, Darbhanga initial enquiry into the allegations were conducted by Shri Shiv Pujan Singh, the then SDPO, Jainagar who submitted his report to SP, Madhubani **exonerating** the then SHO, Jainagar.

5. Based on the report of IG, Darbhanga the **Commission** proposed following actions in the matter:-

(a.) A **Departmental proceeding** against **Shri Sanjay Kumar**, the then **SHO, Jainagar**, Police Station

(b.) Initiation of **Departmental proceeding** against Shri Shiv Pujan Singh, the then **SDPO, Jainagar** for submitting **incorrect** enquiry report to SP, Madhubani.

(c.) Award of a **compensation of Rs. 1,00,000/- (Rs. One Lac)** to the family of the deceased to be paid by the Government of Bihar and govt. to recover the same from the officer responsible for illegal detention/handing over to Nepal Police. **Home deptt.** Govt. of Bihar was asked to respond to it. **The govt. informed that sanction for compensation has been obtained.** Home deptt. sought to know the mode of payment as the citizen involved is a Nepali citizen.

6. Shri Sanjay Kumar the then SHO, Jainagar PS and Shri Shiv Pujan Singh the then SDPO, Jainagar were directed by the Commission to send their

reply if they have anything to submit **in their defence** against proposed action in Para 5 above. Both the officers submitted explanation denying the charges. SDPO justified his earlier report whereas Sh. Sanjay Kumar the then SHO submitted that he was present at Town Police Station, Madhubani at the time when Ramnarayan Mahto is alleged to have been arrested at Jainagar and in support, thereof, enclosed copies of Station Diary entries of Jainagar and Madhubani Town PS's.

7. IG, Darbhanga was directed by the Commission (letter no. 5992 dt 09.05.2013) to look into the defence of both the above officers and send his report. IG, Darbhanga submitted his detailed report (1636/CR dt. 06.07.2013) **rebutting the defence placed by these officers.**

7.2 According to IG, Darbhanga the then SDPO failed to go into depth and also omitted to take statement of certain key witnesses in arriving at the truth of such an important matter.

7.3 IG, Darbhanga pointed out that the defence taken by Sh. Sanjay Kumar SHO of his presence at Madhubani Town PS at the relevant time of arrest of Ramnarayan Mahto (at Jainagar PS) is **shattered by his own entries** in his Monthly Summary of work submitted to SP and the log book entries of Jainagar PS vehicle. Sanjay Kumar had taken defence that he had gone to Madhubani Town PS for raid in connection with Jainagar PS case no.122/09 but the case diary entry **does not corroborate it** and even I.O of this case, S.I Ram Pratap Paswan (now posted in Samastipur) **denied it** and asserted that Sanjay Kumar was at Jainagar PS and had arrested Ramnarayan Mahto. IG's report even points to possible **interpolations in the relevant Station Diary entries of Madhubani Town PS for which FSL examination has been suggested by him**

8. It has been contended on behalf of Sri. Sanjay Kumar, the then SHO that commission is not competent to take cognizance of the issue u/s 36(02) of Protection of Human Rights Act, 1993. It has been brought to the notice of the commission that soon after the death of his brother, the petitioner had been approaching various authorities for redressal of his grievance and protection of his Human Rights but to no avail. Commission took cognizance of the matter u/s 12(a)(ii) of Protection of Human Rights Act, 1993 which authorises commission to inquire into complaints of negligence in the prevention of such violation by a public servant. It need to be emphasized and noted that this violation continued till the matter was brought to the notice of Bihar Human Rights Commission.

9. **Commission is, therefore, inclined to pass following orders in the instant case:-**

(a) Sri. Sanjay Kumar, the then SHO, Jainagar PS affected the arrest of Ram Narayan Mahto @ Manager Mahto @ Manager Singh , **National President of Madhesh Rashtra Jantantrik Party (Nepal) and illegally handed him over to Nepal police.** As regards genuineness or otherwise of police encounter in Nepal leading to the death of Sri. Ram Narayan Mahto , **the commission can not give any comments as it is beyond the jurisdiction of BHRC.**

(b) The defence submitted by Sri. Sanjay Kumar, the then SHO, Jainagar, PS, the report of IG, Darbhanga **negating** his defence and pointing to possible interpolation by SHO to save his skin be sent to SP, Madhubani. **IG, Darbhanga will ensure that departmental proceeding against Sanjay Kumar includes these charges as well.**

(c) Government should initiate a **departmental proceeding** against Shri Shiv Pujan Singh, the then **SDPO Jainagar** for submitting incorrect inquiry report against the SHO. His defence and the report of IG, Darbhanga **negating** his defence be sent to the Home Department for needful.

(d) A compensation of **Rs. 1,00,000 (One lakh)** be paid to the family of the deceased within **three months** by the government of Bihar. Payment to be made through SP, Madhubani.

(e) Subject to the out-come of the Departmental proceeding, government to **recover the compensation amount** from Sri. Sanjay Kumar, the then SHO, Jainagar PS, in the manner deemed fit.

10. Copy of the order be sent to **SP, Madhubani, IG, Darbhanga Zone, DGP, Bihar** and the **Principal Secretary, Home Department, Govt. of Bihar** for necessary action.

11. SP, Madhubani will ensure service of a copy of this order to Sri. Shiv Pujan Singh, the then SDPO, Jainagar, Sri. Sanjay Kumar, the then SHO, Jainagar and to the petitioner.

Date: 17.12.2013

Secretary
SP
Dy. Secretary

Sd/....
(Neelmani)
Acting Chairperson
BHRC