

BIHAR HUMAN RIGHTS COMMISSION

9, Bailey Road, Patna

File Nos. BHRC/Comp. 2171/10

Case of Rinku Devi: (Case of custodial death)

6.8.2015

Petitioner Rinku Devi present. SP (D), Mr. Sanjay Kumar present.

This is a case of alleged custodial death of Deepak Kumar of village Kawai, PS - Daawath, District - Rohtas.

The matter has come up before Commission in 2010 and has taken 5 years to complete the inquiry. In spite of the best efforts of the Commission to decide it earlier it did become possible because of the non-cooperation of various authorities at various levels at different times. But the Commission must also keep on record the appreciation of the present DGP who ensured that the matter is concluded.

The detenue had been arrested by police on suspicion that a boy who was handed over to his custody was missing. In the police station it was alleged he was tortured which resulted in his death. The Commission on 10.7.2013 passed the following order:-

“It is a case of alleged custodial death of Deepak Kumar of village Kawai P.S. Daawat district Rohtas.

DIG Shahabad Range has submitted report. Copy of the magisterial enquiry report has also been brought on record. However, in view of the gravity of the allegation, the Commission is of the view that the matter may be got investigated at the level of this Commission. Dr. Nirmal Kumar Azad, IG BHRC is accordingly directed to make

investigation as per the provisions of Protection of Human Rights Act and submit report, preferably, within one month.

Copy of the complaint and the reports etc. – along with copy of this order – may be furnished to Dr. Azad for needful.”.

Sri Azad’s report was clear and unambiguous but his recommendations were not being accepted in letter and spirit. Therefore an order was passed again on 15.9.2014:-

“Petitioner is present. Mr. Mithoo Prasad SP CID is present.

DG of Police has not filed the response. Neither the Commission is taken into confidence as to what action has been taken in the light of the report of the then IG, BHRC Mr. N.K. Azad. One year has passed; a person has died in custody. The only action that appears to have been taken so far is that a policeman was placed under suspension and ultimately he got scot free with an order that his one future promotion be stopped. In these circumstances, the DG is directed to file personal affidavit by next date of hearing stating therein;-

- (i) Whether the government is going to accept the report of the IG, Mr. Azad and if so what action they are going to take against the alleged culprits. The DG should also explain how long it will take him to take action.
- (ii) He should also spell out if the government has reservations to accept the report of Mr. Azad and if so on what grounds.

Put up on next Monday i.e. 22nd September, 2014.”

After the Commission directed production of the medical record but in the light of the new developments it is not necessary for the Commission to go into those records as the matter is likely to land in court of law and the court will deal with those issues. The police’s latest report is that they have accepted the report of Dr. Azad. They have investigated the case and have found SI Vijay Kr. Singh and SI, Harinath Chaubey prima facie guilty u/s 343/330/304/468/471/420/120(B) IPC and are preparing to file a charge sheet against them. Arrest warrants have also been issued against them. The Commission hopes that the matter will be followed and the accused will be brought to face the law.

Since the police after investigation has come to conclusion that the victim died in police custody due to torture of police officials therefore the awarding of compensation to the family of the deceased cannot be postponed till the trial is over. In trial it will be decided by the court of law whether the accused are guilty or not but that cannot take away the admission of the state that two of its officers were responsible for death of the deceased due to torture. It appears that the deceased belonged to a poor family who was earning his livelihood as a conductor of a bus and was earning an amount of Rs.250 per day. According to the petitioner he was only 25. Family consisted of his ailing parents, wife and four children who are now without livelihood.

The Commission directs payment of rupees five lakh as compensation which shall be deposited in fixed deposit in the name of the wife and children of the deceased for a period of six years and the interest earned on the money shall be allowed to be withdrawn every month so that they meet the needs of the family. In addition to that the government should consider if it would be possible to extend any other benefits including employment to deceased's wife who has to now shoulder the responsibilities of a large family.

The matter is closed.

Copy of the order be given to petitioner, DGP, Bihar and Principal Secretary, Home for information and necessary action.

Compliance report be submitted within eight weeks.

(Justice Bilal Nazki)
Chairperson