

## **Case of Gajendra Prasad**

The applicant Gajendra Prasad has moved this Commission for protection of his basic rights guaranteed under the Constitution and suitable action against Shri Alok, Dy.SP/ SDPO Sadar Bettiah. Report was called from SP West Champaran which was received vide his Memo No. 1979 dated 11.7.2009.

The facts of the matter as stated in the complaint briefly are as follows. The applicant has a piece of land in front of his house at Kotwali Chowk (Khiriya Ghat) P.S. Bettiah town. According to him, his neighbour Abhay Prasad has a dispute with respect to the land and he along with son Kunal often abuses him and engages in fracas. The applicant filed applications at different levels of the police hierarchy but without any result. Recently Abhay Prasad brought the then Dy.SP Sadar (Shri Alok) in his collusion and with his help instituted Town P.S. Case No. 73/08 under section 147, 149, 447, 379 on 15.3.2008. On 10.4.2008, Shri Alok came to the disputed place and started taking ex parte action. When the applicant protested he abused him and got him beaten on his hands by his body guard with fibre sticks. He then took him to his office and there assaulted him himself causing injuries. He also threatened him to give up the land in favour of Abhay Prasad lest he would be implicated in rangadari and arrested under the 'Goonda Act'. The applicant was released in the evening at 8 PM. On the next day the applicant went to local MJK Hospital and got the injuries treated. Vide memo no. 4975 he sent the papers to the Town P.S. but no action was taken. Shri Alok Kumar, it is said, keeps harassing and threatening him. The applicant sent application to DIG Police West Champaran and IG Police Muzaffarpur but nothing has happened so far.

From the report of the SP (supra) it appears that he made a personal enquiry on receipt of the direction from the DIG Police as well as this Commission. In course of the enquiry he took statements of the witnesses including the Medical Officer of MJK Hospital who had attended on the applicant and issued slip vide no 4975 dated 11.2.08 mentioning the injuries as "assault". SP has mentioned that his predecessor (SP) had directed that Bettiah Town P.S. Case No. 73/08 shall be supervised by Inspector level officer. However, violating his directive Shri Alok with some "ulterior motive" and taking "ex-parte" and "personal interest" in the matter issued a note vide memo no. 372/A dated 17.3.2008 to the effect that he would supervise the case. Curiously, copy of the said memo was sent to the SP's office after two days on 19.3.2008 even though the SP's office is situated side by side. The SP had observed

that the letter "A" in Memo No. "372A/08" indicates that the memo was antedated suggestive of the dubious conduct of the officer. The SP has further noted that pursuant to the aforesaid directive of the then SP, Inspector of Police Town-cum-Sadar Circle Bettiah made supervision and submitted supervision note vide his memo no. 197/08 dated 8.4.2008 taking the view that the case was of civil nature and that the allegations against the applicant were false. (The said supervision note was approved by the SP vide memo no.1085/VO dated 16.4.2008 in the light of which final report was submitted in court on 17.4.2008 and the same was accepted.)

SP has observed that Shri Alok was determined to make the supervision himself and therefore antedated his office memo (supra) after he came to learn the contents of the supervision of the Inspector. The SP has in fact gone to the extent of holding that the SDPO had got Case No. 73/08 instituted, and he wanted the same to end in favour of Jyoti Devi (w/o of Abhay Prasad) and therefore out of desperation and annoyance he went to the house of the applicant two days after the submission of the supervision note by the Inspector on 10.7.2008 and got him beaten and abused by his body guard, driver Madan Razak and typist Ramanand Singh. The incident was supported by the witnesses and corroborated by the doctor. SP finally held that the conduct of Shri Alok had shown the police in poor light and shaken the faith of the public. He recommended that disciplinary proceeding may be held against him.

Copy of the above report was sent to the Principal Secretary, Home Department seeking his response. Under Secretary, Home (Special) Department, vide his letter No. 6431 dated 24.8.2009 has informed the Commission that the State Government will comply with the decision of the Commission in the matter.

We have referred to the findings of the enquiry report of SP, West Champaran at length. It is clear that Shri Alok, Dy.SP/ SDPO, Sadar Bettiah among other things went out of the way in taking side in the dispute between the applicant and Abhay Prasad to the extent that he got a case instituted against the applicant, purposed to supervise the investigation to circumvent the supervision by the Inspector pursuant to the direction of the SP, and when it transpired that the Inspector had already submitted supervision memo to the effect that the dispute was of civil nature, feeling frustrated and annoyed, went to the applicant's house abused and assaulted him in public. We are in agreement with the finding of the SP such conduct on the part of police officer brings disgrace to the police organisation apart from being

illegal, arbitrary and unprofessional and therefore it is a fit case for holding disciplinary proceedings against him.

We are also of the view that the punishment which may be awarded in the proposed disciplinary proceeding may not compensate the applicant for violation of his human rights. Whatever be the merit of the dispute between the applicant and Abhay Prasad, it was none of the business of Shri Alok and his subordinates to abuse and assault the applicant and keep him in confinement at the police station for the whole day upto 8 P.M. There cannot be any doubt the incident demeaned the prestige and honour of the applicant and the action was violative of his human rights for which he should be compensated in monetary terms. We are of the view that being an agent and functionary of the State, for the acts of Shri Alok, the State Government should pay compensation but recover the money from him, being the main actor in the episode and perpetrator of the offence.

It is relevant to mention here that response of Shri Alok was also sought clearly mentioning that if response is not filed within three weeks appropriate decision will be taken. No response has been filed by him till date.

In the facts and circumstances we direct the State Government through Principal Secretary, Home Department to pay compensation of Rs.40,000 (forty thousand) to the applicant within four weeks with liberty to recover money from his salary. We further direct the Government to initiate departmental proceeding in the light of the findings of the SP West Champaran (supra) and take the matter to its logical end. Compliance report may be submitted within six weeks.

Copy of this decision may be sent to all concerned.

Justice S.N. Jha  
Chairperson