

## Case of Kajoma Devi

The applicant, Kajoma Devi, filed the application before the Superintendent of Police, Begusarai for enquiry into the incident at his level and appropriate action. She also sent a copy of the application to the Commission among others. On consideration of the facts the Commission took cognizance of the case and called for report from the SP as well as the District Magistrate of Begusarai on 31.12.2008. Two reminders were thereafter sent but no response was received. In the circumstances on 19.6.2009 the IGP Shri A.K. Seth attached with the Commission was directed to make enquiry and submit his finding. The Commission observed that the allegations were serious enough to warrant expeditious enquiry. Shri Seth made enquiry in presence of SP Begusarai and SDPO Begusarai and took the statements of the witnesses including applicant Kajoma Devi and the officer-in-charge against whom allegations were made. He submitted his findings on 13.7.2009.

The case of the applicant is that on 21.6.2008 that her husband Devanand Singh had filed a complaint against SDPO Sadar, Shri Pankaj Kumar, the officer-in-charge of Barauni Refinery Police Station, Shri Rajesh Ranjan and another, Police Officer (Chota Babu) of the Barauni Refinery P.S. before the SP; the applicant also had sought information under the RTI Act. This annoyed the officer-in-charge and by way of revenge he kept the applicant and her husband in the Hazat of the Police Station from the evening of 25.8.2008 to the morning of 26.8.2008 up to 10 O' Clock. During this period the applicant was tortured and her husband was threatened with dire consequences. The incident was seen by her relatives and villagers. However, out of fear they were not prepared to depose in court. The applicant requested the SP to himself make enquiry and take suitable action against errant police officials. The applicant also stated that police has been visiting her house during night time to create a sense of fear of uniform on the pretext of collecting information under the RTI Act which has led to whisper amongst the villagers and indecent things were being said about the applicant.

From the report of the IG, it appears that there is land dispute between the applicant's family and one Rajniti Singh and some incident had taken place on 24.8.2008. The officer-in-charge came to the village and took her as well as her husband to the police station and kept them there for the whole night. The applicant stated that despite request they were not allowed to take food brought from home. Her witnesses were turned out of the police station. She stated that due to her confinement in the police station for the whole night she suffered disgrace and loss of prestige and was not in a position to show her face in the society.

It is not necessary to refer to the statements of the witnesses who depose in favour of the applicants. All of them unanimously in one voice stated that whatever might have happened in the incident of 24.6.2008, the applicant being a woman should not have been kept in the police station during night. Even the opponent of the applicant spoke about confinement of the applicant and fairly stated that being a woman she should not have been kept at the P.S. in the night.

The officer-in-charge, Shri Rajesh Ranjan denied the allegation that the applicant was kept at the police station during night. He stated that the dispute between two sides was got settled with the intervention of former Mukhiya and others and the parties were allowed to leave the police station after executing P.R. Bond within three hours.

The IG found that as per the records of the police station both sides had come to the police station and after reconciliation and execution of P.R. Bond left within

three hours. The IG, however, observed that if the parties had entered into compromise, the applicant would not have filed any complaint for being kept in confinement during whole night and entered into compromise under pressure. The IG has relied on the statements of the witnesses including those who appeared for the opposite side all of whom had unanimously stated about the confinement of the applicant during whole night, to disbelieve police records of the police station and the version of the officer-in-charge. The IG has observed that the applicant is woman she had not committed any such offence which could justify her detention. The IG has noted that there was no female constable in the police station. He also made enquiry about the antecedents of officer-in-charge and found that he had been transferred on the charge of demanding money from oil tippers for which disciplinary proceeding has been initiated against him. The IG finally found the charge of keeping the applicant in confinement during whole night and pressurising her to enter into the compromise with the opposite party as proved.

On the findings reached by IG, Shri A.K. Seth, a prima facie case of misconduct is made out against the officer-in-charge of Barauni Refinery P.S., Shri Rajesh Ranjan. However, initiation of disciplinary proceedings and his eventual punishment therein may not be enough. As the applicant has suffered humiliation and on account of her confinement during whole night her honour and dignity has been put on stake, it is fit case in which the applicant should be suitably compensated for the humiliation and harassment. The officer-in-charge being a functionary of the Government, compensation must be paid by the Government which may be recovered from him later.

Let, accordingly notice issue to the State Government through Principal Secretary, Department of Home, as to why compensation should not be awarded to the applicant, Shri Rajesh Ranjan officer-in-charge Barauni P.S. may also put on notice as to why disciplinary proceeding may not be initiated in respect of the incident. Response as above may be filed within three weeks failing which appropriate decision will be taken on the basis of the records.

Justice S.N. Jha  
Chairperson

This proceeding was initiated on the complaint of Kajoma Devi, resident of village Jamaira P.S. Barauni Refinery, district Begusarai. She stated that her husband had filed complaint against SDPO Sadar and the Officer-in-Charge of Barauni Refinery P.S. and other officials of the said police station, an application under the RTI Act was also filed. This annoyed the Officer-in-Charge and by way of retaliation he brought her to the police station and kept her in the hazat from the evening of 25.8.2008 upto the morning of 26.8.2008. During this period the applicant was tortured and her husband was threatened. The incident was witnessed by her relatives and the villagers. However, out of fear they did not come forward.

Reports were called from the SP as well as District Magistrate Begusarai. As they failed to send the report despite reminders, Shri A.K. Seth, IG attached with the Commission was asked to make an on the spot enquiry. Shri Seth made enquiry in course of which he took the statements of the witnesses including the victim-

complainant and the Officer-in-Charge, and submitted his report. On consideration of the report on 23.7.2009 the Commission passed a detailed order concluding as under:-

“On the findings reached by IG, Shri A.K. Seth, a prima facie case of misconduct is made out against the officer-in-charge of Barauni Refinery P.S., Shri Rajesh Ranjan. However, initiation of disciplinary proceedings and his eventual punishment therein may not be enough. As the applicant has suffered humiliation and on account of her confinement during whole night her honour and dignity has been put on stake, it is fit case in which the applicant should be suitably compensated for the humiliation and harassment. The officer-in-charge being a functionary of the Government, compensation must be paid by the Government which may be recovered from him later.

Let, accordingly notice issue to the State Government through Principal Secretary, Department of Home, as to why compensation should not be awarded to the applicant, Shri Rajesh Ranjan officer-in-charge Barauni P.S. may also put on notice as to why disciplinary proceeding may not be initiated in respect of the incident. Response as above may be filed within three weeks failing which appropriate decision will be taken on the basis of the records.”

The Officer-in-Charge did not file any reply/ response. The Home (Special) Department has sent two communications – one bearing no. 6391 dated 24.8.2009 wherein giving reference to the compensation proposed to be awarded to the complainant it has been stated that the State Government shall take steps in the light of the recommendation/ direction. The second communication is memo no. 6455 dated 25.8.2009 which is copy of the communication to the DGP Bihar requesting him to take follow-up steps against the Officer-in-Charge Barauni Refinery P.S., Shri Rajesh Ranjan, in the light of the direction of the Commission, and inform the result of the action to the government as well as the Commission. We expect that the DGP shall issue necessary instruction to SP Begusarai for initiating disciplinary proceeding against Rajesh Ranjan, Officer-in-Charge Barauni Refinery P.S. and take the matter to its logical end.

As regards compensation, all that is to be done by us is to quantify the amount. It is the established position that the complainant was forcibly taken to police station even though she was not an accused in any case or wanted otherwise, and kept in the lock-up at the police station for the whole night. It may be mentioned – as already noted in our previous decision dated 23.7.2009 – that there was no woman constable present at the police station. Even her adversary with whom she had some kind of dispute stated before Shri A.K. Seth that being a woman, the complainant should not have been kept in the police station during night. Keeping the complainant at the police station in confinement during night hours without presence of a woman constable violated all norms of dignity and the guidelines by the NHRC and possibly the Government too. The complainant suffered loss of face and dignity amounting to violation of her human rights. Under Section 18(a)(i), the Commission is empowered to award compensation among other things, when the enquiry discloses violation of human rights. Though the Officer-in-Charge Shri Rajesh Ranjan was responsible for the violation, being a functionary and agent of the State Government would be liable to pay the compensation and as observed in our previous decision, after making payment, may recover the amount from him in accordance with law. In the facts and circumstances we think compensation of Rs.50,000 (fifty thousand) would be just and proper.

We accordingly direct the State Government through the Principal Secretary, Department of Home, to pay a sum of Rs.50,000 (fifty thousand) to the complainant within four weeks from the date of receipt of a copy of this decision with liberty to recover the amount from Shri Rajesh Ranjan, Officer-in-Charge, Barauni Refinery Police Station.

Justice S.N. Jha  
Chairperson