

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

File No **BHRC/COMP.** 735/09

Case of **ANIL Kr. SETH**

The complaint in this matter is a fall-out of Kudra P.S. Case No.23/08 registered against the applicant and others. Charge sheet has been submitted and the case is now in the stage of trial. The Commission would have in the ordinary course straightway closed the file as it does not intervene in sub judice matters.

From perusal of the file it appears that CID had made enquiry into the episode, on receipt of the complaint from the Chief Minister's Janta Darbar and submitted report contained in SP(C)'s letter no.153 dated 16.3.2008 to the ADG (Law & Order), Bihar. In the said report it was inter alia stated that the BDO (Prakhand Vikas Padadhikari) Kudra Block, informant of the case, had managed injury report from the Primary Health Centre abusing his position and filed the case with exaggerated allegations. The report, in fact, belies the informant's allegation of assault altogether. The Commission would not like to go into this aspect at this stage since it is a sub judice matter, as indicated above. However, taking notice of the alleged conduct of the then BDO, Shri Nazar Hussain (now posted as DCLR Mahua), notice was issued to him pursuant to which he has filed show-cause.

The matter was finally heard today (3.8.2011) in presence of the applicant & his Advocate, Shri Nazar Hussain & his Advocate and Shri Nayeem Akhtar, Dy.SP Kaimur who appeared on behalf of the Administration.

Without intending to influence the course of trial, the Commission would observe that the description of injuries (injury nos. 1 & 2) ex facie appear to be far fetched and concocted. Injury no.1 is described as sharp cut of the size of 5"x2"x1½" on the forehead while injury no.2 has been described as sharp cut of the size of 4½"x2½"x1" over xiphisternum (chest) portion. The Commission is inclined to think that a person having such grievous injuries on vital parts such as head and chest would be in a critical and precarious condition. Fortunately for Shri Nazar Hussain, it was clearly not so. It may be mentioned here that in his forwarding memo to the Medical Officer Incharge, Primary Health Centre, Kudra Shri Ajay Kr. Paswan, ASI of Kudra had described injury no.2 as "scratch and blood oozing". While injury no.1 was also likewise simply described "as blood oozing wound on the forehead". In the circumstances, the Commission is inclined to endorse the conclusion of the CID that the Officer abused his position and thus obtained the injury report, and filed the case with exaggerated allegations. The

Commission would like to avoid making any further observation which could cause prejudice in the trial but the fact remains that charge sheet was submitted for graver offences like section 326 IPC, in view of the injury report, resulting in trial by Sessions Court and a lurking possibility of conviction under graver sections.

The tendentious nature of the medical report becomes evident from the fact that the Doctor not only mentioned the injuries, he also at the top of the report gave reference to the incident in which the officer had supposedly sustained injuries and names of accused. Normally the injury report simply mentions the nature of the injuries, opinion about the age of injury and nature of the weapons, if any, used.

Shri Nazar Hussain submitted that the Medical Officer was not under his administrative control as BDO, and therefore the allegation of exerting any pressure or influence on the Doctor and obtaining a false injury report from him is without any basis. He also submitted that there was no material to show that pressure was given and it is for the Doctor to explain the injuries.

The submission is not very convincing. It is not difficult to visualise that officials posted at the same place do sometimes develop acquaintance and the probability of one influencing the other for some gain cannot be ruled out.

On behalf of the applicant attempt was made to discredit the prosecution case but, as mentioned above, the matter is sub judice in court and this Commission would not like to go into or make any observation on the matrix of the prosecution case.

The Commission is satisfied that the Officer Shri Nazar Hussain, then posted as BDO Kudra Block (now DCLR Mahua) abused his position, obtained an inflated report about the injuries and on that basis filed the case. The Commission would accordingly recommend that suitable action be taken against him in accordance with law.

Action taken report may be submitted within six weeks.

Copy of this order may be sent to Secretary, Personnel Department, Government of Bihar and Shri Nazar Hussain posted as DCLR Mahua district Vaishali, besides the applicant.

Justice S.N. Jha
Chairperson