

BIHAR HUMAN RIGHTS COMMISSION
9, Bailey Road

File No **BHRC/COMP.** 1155/2009

Case of **Banke Manjhi**

This proceeding, initiated on the complaint of Msstt. Sonma Devi is about custodial death of her husband Banke Manjhi. He died while in custody at the Divisional Jail Biharsharif on 24.2.2009. Report and the relevant papers were called from the I.G. Prisons Bihar. He sent his report and thereafter also made available copies of the inquest report, post mortem report, the magisterial enquiry report, the viscera examination report to the Commission.

The admitted facts are these. On 5.12.2008 Banke Manjhi (hereinafter referred to as the deceased prisoner) was admitted to the Divisional Jail at Biharsharif. He was subjected to medical examination at the time of admission as per the NHRC guidelines and nothing adverse was detected. In his report I.G. Prisons also stated that at the time of admission the deceased prisoner did not have any ailment or physical trouble. On 26.2.2009 his condition allegedly, suddenly deteriorated. On his way to Sadar Hospital, Biharsharif he died. At the hospital the doctor declared him 'brought dead'. At 3:15 P.M. on the same day a UD case being Deep Nagar P.S. (U.D.) Case No. 1/09 was registered. At 3:30 P.M. inquest was held as per which he had died of illness. At 4:15 P.M. the post mortem was held. The doctor did not find any injury on the body. As he could not ascertain the cause of death, he preserved vital parts of the viscera for chemical examination. These parts, however, reached the Forensic Science Laboratory (F.S.L) Patna only on 18.3.2010. They were subjected to chemical examination on or about 16.7.2010. As per the F.S.L. report dated 16.7.2010 the body parts had decomposed. Nevertheless it was noted "no metallic, alkaloidal, glycosidal, pesticidal or volatile poison could be detected..."

On first impression, the death of the deceased prisoner would appear to be natural; however, on a close look it would appear that the death was due to negligence on the part of the jail authorities. It is the specific case of the complainant i.e. the deceased prisoner's wife that on learning about her husband's illness she met him in the jail on 24.2.2009 when he complained that despite his serious illness and requests, he was not being provided medical treatment. The applicant then approached the Jailor and the Jail Superintendent requesting them for help but she was rebuked and turned out. On 26.2.2010 she learnt that her husband had died and his dead body was lying in the Sadar Hospital. She then went to the hospital, took his dead body and performed the last rites. The applicant says she is landless without any source of income to

maintain her children and herself. She has stated that she was being paid compensation of Rs.10,000 which too was stopped. She has claimed that death of her husband was due to negligence of the Jailor and the Jail Superintendent.

There is no denial of the applicant's claim that when she visited her husband on 24.2.2009 she found him ill and complaining that no medical treatment was being provided. There is no denial of her case that her remonstrations with the Jailor and the Jail Superintendent to provide medical treatment went unheeded. Some of the witnesses examined by the Judicial Magistrate in course of his enquiry under section 176(1A) Cr.P.C. stated that the deceased prisoner started having loose motions and vomiting. This prima facie could be due to some bowel infection or he might be suffering from indigestion. These are ailments which can be easily controlled but as found by the Magistrate no medical facility whatsoever was available in the jail. The jail, in fact, did not have a whole time doctor. Dr. Ashok Kr. Sinha in his evidence stated that he is posted at the Sadar hospital Bihar Sharif; he has also been deputed to the jail hospital in addition to his duties and he sometimes comes to jail on receipt of telephone calls.

The circumstances are suggestive of the fact that the deceased was ill since at least prior to 24.2.2009; on 26.2.2009 his condition deteriorated. At the very eleventh hour, while being taken to Sadar Hospital he died. There is no claim or even mention in the report of any drug or medicine being given to the deceased. It is clear that he died without getting any medical help whatsoever. The Commission is therefore unable to accept the version of the I.G. Prisons to the effect that the death was natural one, due to illness. Curiously, having claimed so, the I.G. Prisons took a stand that no case for compensation is made out. In its order dated 18.3.2010 the Commission expressed surprise as to how I.G. Prisons could jump to any such conclusion. In the opinion of the Commission, the deceased prisoner died on account of apathy and negligence on the part of the jail authorities. Had medical aid been provided on time, his life could be saved. His death has brought about a trail of miseries and problems for the bereaved family and it is a fit case in which monetary compensation should be granted to them which the State should pay at the first instance with liberty to recover from the concerned officials. It is also a fit case in which departmental action should be taken against the concerned Jail Superintendent and the Jailor.

Having recorded these findings, the Commission would give an opportunity to the concerned authorities to submit their response.

Let, accordingly, copy of this order be sent to Principal Secretary, Department of Home, Government of Bihar and I.G. Prisons Bihar for their response within four weeks. Copy may also be sent to the applicant.

Justice S.N. Jha
Chairperson