

File No.1717/09

This file was initiated on the complaint of Naresh Prasad Yadav son of Moti Prasad Yadav of village Tineri Math within Masaurhi P.S. of Patna district about his non-authorized detention for as many as 85 days.

It may be mentioned at the outset that the arrest was purportedly effected in connection with Masaurhi (Bhagwanganj) P.S. Case No.172/08. The person who figured as accused in that case was Naresh Yadav son of Arjun Yadav of village Kharauna but without making any attempt to verify the identity, the applicant was taken into custody when he went to the police station in connection with verification of the application which he had submitted for financial assistance for higher studies to his son under the Mukhyamantri Rahat Kosh Yojna. By order dated 8.10.2009 Rural SP Patna was directed to make an enquiry and submit report. Rural SP submitted his report finding the allegations to be true. Later, Senior SP Patna was directed to submit report about the action which was apparently warranted against the concerned officials instrumental in arresting the applicant. On consideration of the reports, vide its order dated 21.1.2011 the Commission observed as under:-

“In view of the reports of S.P. rural Patna dated 29.1.2010 and the report of Senior S.P. Patna dated 6.4.2010 it is admitted position that applicant Naresh Prasad Yadav was wrongly arrested in a Masaurhi (Bhagwanganj) P.S. Case No.172/08. The real person involved in the case was Naresh Yadav son of Arjun Yadav but without taking care to establish the identity, applicant Naresh Yadav son of Moti Yadav was arrested. Curiously enough, charge sheet No.60/08 was also submitted against him. The police later realised the mistake. After obtaining court's permission for reinvestigation in terms of section 173(8) Cr.P.C., charge sheet (supplementary) no. 71/10 was submitted against Naresh Yadav son of Arjun Yadav. Final report was submitted against the applicant. Applicant in the meantime remained in jail from 16.3.2009.”

The Commission noticed that explanation was being sought from SI Md. Akram Ansari who had arrested the applicant and secured his judicial remand and SI Harikesh Pandey who finally submitted the charge sheet after taking over investigation from the former. The Commission observed that:-

“While initiation of departmental proceeding may be the proper course of action – so far as the erring officials are concerned, the applicant should be compensated for his unwarranted detention. In terms of Article 21 of the Constitution of India, the liberty of a person cannot be curtailed save in accordance with law. The detention of the applicant being totally unjustified and without authority of law, it is a fit case for awarding compensation.”

Notice was issued to the Government of Bihar through Secretary, Department of Home as to why suitable compensation be not awarded to the applicant. By letter no.3932 dated 29.4.2011 of the Home (Special) Department, the Commission has been informed that the Government will take action on whatever decision is taken by the Commission. In other words, the Government does not intend to contest the matter.

The Commission is satisfied that it is not only a case of blatant abuse of authority by the concerned police officials namely SI, Md. Akram Ansari and SI Harikesh Pandey of Masaurhi P.S. for which they are liable to be suitably punished, but also an instance of how the citizens' rights are so casually fiddled with by the state functionaries and therefore the punishment may not be adequate solace to the applicant who needs to be suitably compensated. As mentioned above, he remained behind bars for as many as 85 days in a case in which he was not even a suspect. Curiously, the applicant was not only arrested but charge sheet was also submitted against him. It was only on the intervention of this Commission that the case was re-investigated after taking permission from the court under section 173(8), and charge sheet (supplementary) was submitted against the real Naresh Yadav son of Arjun Yadav and final report was submitted in favour of the applicant. For such unlawful detention, the State is liable to pay compensation. As observed in the previous order dated 21.1.2011, it is open to the Government to recover the compensation amount from the concerned officials in accordance with law, that is to say, after giving opportunity of hearing to them.

Coming to the amount of compensation the Commission is of the view that sum of Rs. two lakh would meet the ends of justice.

The Commission, accordingly directs that the State Government through the Secretary, Department of Home to pay compensation of Rs. two lakhs to the applicant and submit compliance report within six weeks.

The Commission also directs Senior SP Patna to take the ongoing departmental proceedings against the concerned officials to their logical end by awarding suitable punishment to them in accordance with law. Compliance report in this regard be submitted within three months.

A copy each of this order be sent to the Principal Secretary, Department of Home, Government of Bihar, Senior SP Patna and the applicant.

Justice S.N. Jha
Chairperson

Date:08.06.2011