

BIHAR HUMAN RIGHTS COMMISSION
9, Bailey Road

File No **BHRC/COMP.** 58/10

Case of **LATE NARESH YADAV**

This matter relates to the custodial death of Naresh Yadav at Sadar Hospital, Jamui on 11.4.2010. At the time of death he was in judicial custody in the Divisional Jail at Jamui.

The brief facts are that Naresh Yadav was apprehended by the Jhajha Police on 31.3.2010 and forwarded in connection with the Soho P.S. Case No. 120/09 which had been registered against Chirag Da and seven named accused besides 50-60 unknown. The name of Naresh Yadav did not figure in FIR. On 3.4.2010 he was produced before the Magistrate and remanded to judicial custody. Dr. Naushad Ahmad, Medical Officer, Jamui Jail who examined him at the time of admission in jail found injuries on his person. According to the doctor, Naresh Yadav complained of pain and he was given medicines including pain killers and antibodies. On 11.4.2010. Dr. Naushad was again called to examine him as Naresh Yadav complained of complication including oozing of blood from mouth. Considering his condition the doctor referred him to Sadar Hospital where he died on the same day. Dr. Arun Kr. Sinha who held the post mortem found "marks of blood bruises almost on the whole part of the body except head and neck; linear abrasions over upper right thigh laterally almost dried up with crust formation; while froth was coming out in huge quantity from body, nostrils and mouth; whole part of the body was swollen" He also found fluids in several internal parts of the body which were congested and collapsed. In his opinion all the injuries were anti-mortem caused by hard blunt substance. Further in his opinion, the death was caused on account of excess internal bleeding resulting in loss of blood causing failure of heart and lungs.

Shri Md. Salim, the Judicial Magistrate, who held the magisterial enquiry in terms of section 176(1A) Cr.P.C. in his report (after recording the statements of the said two doctors, another doctor, one Rajesh Kumar and jail inmate Karu Yadav) came to a clear finding that the deceased Naresh Yadav died on account of excessive beating resulting in internal bleeding and failure of cardiac and respiratory system, and that

the death was therefore unnatural. Similar finding was recorded by the Magistrate who held the inquest on the date of death i.e. 11.4.2010.

Copies of the relevant papers were sent to the family of the deceased in response to which his wife Sunaina Devi has filed application seeking compensation and other kinds of help by the Government. She has stated that she was contemplating to file complaint in the National Human Rights Commission when she received copies of the reports etc. from the State Commission and her application may be treated as complaint.

Facts of the case, if I may say so, are as clear as day light. As noted above, Naresh Yadav was apprehended by the Jhajha Police on 31.3.2010 but produced before the Magistrate after three days by the Soho Police. The deceased, thus, remained in physical custody of the local police for three days. The injuries found on his body at the time of the very first examination by Dr. Naushad Ahmad on 3.4.2010 were clearly indicative of the physical assault at the hands of the police. It may be mentioned that Soho Police Case no.120/09 was lodged against the so called extremists describing them as members of the M.C.C. Naresh Yadav, however, was not cited in the list of accused. While it was open to the police to apprehend him later on bona fide suspicion, the Police was certainly not supposed to resort to third degree methods and subject him to beatings for three days unmindful of the constitutional obligation to produce him before the nearest Magistrate within 24 hours, among other things. The acts of omissions and commissions which eventually led to the death of Naresh Yadav are prima facie attributable to the concerned police officials.

The jail authorities were no less at fault. Dr. Naushad Ahmad in his statement before the Judicial Magistrate categorically stated that he was never called again by the Jail Authorities until 11.4.2010 when his condition had sufficiently deteriorated. The Commission is inclined to think that the deceased might have been beaten in jail too but, in any case, had proper medical aid been provided to the deceased on time, his life could be saved notwithstanding the brutal assault by the policemen.

At the time of his death Naresh Yadav was 28 years old. He has left behind a widow aged 25 years and three children – all of whom aged below six years. His widow and children were dependant on him and his death has turned them into destitutes.

The Commission recorded its findings, as mentioned hereinabove, in its interim order dated 19.8.2010 observing that it is a fit case for

awarding compensation and taking departmental action against the guilty police and the jail officials for their acts of omission and commission. The Commission observed that compensation may be paid at the first instance by the State Government which may later be recovered from the concerned police and jail officials. Observing thus, copy of the order was sent to the Principal Secretary, Department of Home, Government of Bihar for his response within four weeks. Notice was sent on 26.8.2010. As no response was received within the stipulated time a reminder also was sent on 20.10.2010. There is no response from the Department so far. In the meantime, relevant papers (which had earlier been sent to the NHRC) has been received from National Commission.

The Commission has looked into the relevant reports/papers and after giving due consideration the same has come to conclusion that there is no reason for taking a different view. Facts of the case are so telling that no other view can be taken of the matter except that the deceased died as a result of physical assault and atrocities at the hands of the police personnel (and, may be, jail staff too) coupled with negligence on the part of the Jail authorities. It is a fit case in which the Government should pay compensation to the family of the deceased (represented by his wife Sunaina Devi) and take departmental action against the concerned police and jail officials after identifying them. In the facts and circumstance, compensation is quantified at Rs.2.50 lakhs. The amount be paid to Sunaina Devi within six weeks. The Commission further directs that process be initiated to identify the guilty police and jail officials and departmental proceeding be initiated against them. As observed in the earlier order, it is open to the State to recover the amount of compensation from the concerned police/jail officials in accordance with law.

Compliance report be submitted by 31.1.2011.

Copy of this order be sent to the Principal Secretary, Department of Home, Government of Bihar; D.G.P. Bihar and Sunaina Devi

Justice S.N. Jha
Chairperson