

BIHAR HUMAN RIGHTS COMMISSION
9, Bailey Road

File No **BHRC/COMP.** 2027/09

Case of **RAJKISHORE RAI**

This proceeding was initiated on the complaint of applicant Raj Kishore Rai of village Ratanpur within Warisnagar P.S. of Samastipur district.

As per the complaint, on 29.9.2009 in the morning at about 9 AM the applicant took his pregnant wife, Munni Devi, to Sadar Hospital, Samastipur for delivery and got her admitted in the hospital. In the beginning, after examination of the patient, the doctor and nurse on duty (Dr. Smt. Pushpa Rani and Smt. Vibha Kumari, respectively) said that the patient was in good condition and there was nothing to worry about. However, after about two hours they demanded sum of Rs.5000 on the pretext that the patient's condition was not good. The applicant was in no position to pay the amount and the time passed. Finally, in the late night at about 2 o'clock the applicant was told that either he should pay the money or take his wife elsewhere since her condition was serious. The applicant was forced to take his wife to a private nursing home. By the time the child in the womb had died and body had to be taken out by surgical method. Somehow the life of the wife could be saved. It is said that even as on the date of the complaint her condition was not good.

It may be mentioned here that the complaint, to the above effect, was addressed and submitted to the District Magistrate, Samastipur and copy thereof was sent to various authorities including this Commission. On 18.12.2009 the Commission took cognizance of the complaint and asked for report from the District Magistrate. The District magistrate caused enquiry by the Civil Surgeon-cum-Chief Medical Officer and on 12.12.2010 sent the enquiry report dated 8.12.2010. Along with enquiry report, copies of the statements of Dr. Pushpa Rani, Smt. Vibha Kumari and one Usha Kumari (whose name was mentioned by the applicant's wife in her statement) were enclosed. All of them in their respective statements denied the allegation of demand for money. They also tried to deflect the blame on the plea that the time of incident does not coincide with their duty hours.

The matter was fixed for oral hearing. At the hearing the applicant and Civil Surgeon, Samastipur (who was authorised by District Magistrate to represent the District Administration) appeared on 15.6.2011 and 22.6.2011 along with records and the matter was heard in their presence.

The applicant submitted that he did not know Dr. Smt. Pushpa Rani or Smt. Vibha Kumari. He mentioned their names in the complaint believing (on the

basis of information which he had privately gathered) that they were the doctor and nurse on duty. He pointed out that he, in fact, filed application under the RTI Act seeking information about the names of the doctors/nurses on duty on the fateful date but till date the information has not been supplied. Being an illiterate rustic from village, his complaint cannot be rejected simply on the ground that the named doctor/nurse were not on duty at the relevant time. Applicant submitted that there is no dispute that his wife was admitted in the Sadar Hospital on 29.9.2009. In this regard he placed reliance on the registration memo. Photocopy of the memo was in fact enclosed with the complaint. (He produced the original at the time of hearing). Applicant submitted that if it is a fact that his wife was admitted for delivery, it was the duty of the hospital administration to take care of his wife and ensure safe delivery. As such, the administration cannot absolve itself of the responsibility and liability simply on the ground that the names of the doctors and nurse as mentioned in the complaint do not tally with the register.

The Commission finds substance in the submissions advanced by the applicant. Indeed, the fact that applicant's wife was admitted in the Sadar Hospital is borne out by the relevant register which tallies with the registration memo bearing no.506519 dated 29.9.2006, and the Civil Surgeon did not take any stand to the contrary. Query was made to the Civil Surgeon as to steps taken by the hospital for delivery of the child. No satisfactory explanation was furnished. He stated that he was not the Civil Surgeon at the relevant time. The Commission finds merit in the plea of the applicant that it was the duty of the hospital administration to take care of the applicant's wife and ensure safe delivery of the child.

From the sequence of events it is clear (and there is no dispute about it) that the applicant's wife was admitted in the hospital in the early hours of 29.9.2009. She, however, apparently remained unattended until the applicant took her to a private nursing home at about 2 o'clock in the night. By the time enough damage had been done and the child had died in the womb. It is not difficult to visualise the condition of applicant's wife and it was really her good fortune, and the applicant's too, that her life somehow was saved. It is also not difficult to comprehend that the applicant must have incurred expenditure over the surgery etc performed on his wife and her subsequent treatment. All this because the applicant apparently did not meet the demand for money. No doubt, there is no proof of any demand for money but at the same time, the Commission is inclined to think, direct proof of such an allegation is a distant possibility. In the attending facts and circumstances, the allegation cannot be brushed aside. The conditions prevailing in government hospitals are too well-known. What else

possibly could be the reason for not attending on a patient for more than 12 hours forcing the applicant to shift his wife to a private nursing home in the dead of night at about 2 o'clock. And why else they would shift to a private nursing home at such odd hour? Clearly the hospital staffs were unresponsive leaving them no option but to leave.

In any case, there is no explanation worth the name as to why the applicant's wife remained unattended forcing them to move out at 2 o'clock in the night. There is no record to show that any kind of medical care was provided to her. After she was admitted to the hospital for delivery, it was the duty of the hospital administration to take care of the patient. She should have been taken to the labour room for delivery. There was a clear failure and dereliction of duty on the part of the hospital administration which resulted in the death of unborn child, and complications in the condition of the applicant's wife.

In the facts and circumstances, the Commission is inclined to accept the applicant's version, and it accordingly holds that he is entitled to monetary compensation for the loss of unborn child; the avoidable expenditure incurred on the surgery etc of the wife; the trauma and mental harassment and, above all, the insensitive and inhuman treatment meted out to him and his wife by the hospital administration – all of which amounted to violation of their human rights. The right to be born and right to health & medicare are facets of right to life and therefore human right. In the facts and circumstances, the Commission would quantify the compensation at Rs. one lakh.

In the result, the Commission would direct the District Magistrate, Samastipur to pay a sum of Rs. one lakh as monetary compensation. The Commission would ask the Secretary, Department of Health & Family Welfare to provide, if so required, the said amount at the disposal of the District Magistrate to facilitate payment. This should be done within a period of six weeks. It will be open to the State Government in the Department of Health and/or the District Magistrate, Samastipur to recover the amount from the salary of the concerned doctors/ nurses etc. after enquiry at their level in accordance with law.

Let copy of this order be sent to the Secretary, Department of Health & Family Welfare, Government of Bihar and the District Magistrate, Samastipur for compliance within the stipulated time.

Copy may also be sent to the applicant by way of information.

Justice S.N. Jha
Chairperson