

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

File No **BHRC/COMP.** 286/09; 753/09 & 1101/09

Case of **SIDDHARTH**

These three files relate to an incident of 26.2.2009 when in course of raid of the Adarsh Central Jail, Beur by the police party, one of the convict prisoner namely Siddharth was assaulted by the then SHO of Phulwarisharif P.S. Shri Ramakant Prasad, and variously threatened. Siddhartha made a complaint to the National Human Rights Commission (NHRC) as well as this Commission through Jail Superintendent on the same day. The complaint made to the NHRC was transferred to this Commission for disposal. Earlier, Dr. Rita Singh, Siddharth's mother, had also submitted similar complaint to this Commission on 28.2.2009. While the complaint of Dr. Rita Singh was registered as File no.286/09, the Siddharth's complaint (addressed to this Commission – received later through the Jail Superintendent) was registered as File no.753/09 and the complaint received on transfer from the NHRC was registered as 1101/09.

As per the complaint on 26.2.2009 at about 7:15 AM SHO Phulwarisharif Shri Ramakant Prasad and SHO Beur, Shri Kaiser Alam entered ward no.3/21 (in which the complainant was lodged) along with the police party. No sooner than they came, Shri Kaiser Alam caught hold of his hands and Shri Ramakant Prasad gave him fist blow on his left eye causing injury in the eye. They further assaulted him causing injuries on different parts of the body. When Siddharth wanted to know the reason behind the assault Shri Kaiser Alam told him that as per the confidential information he was a drug addict and peddler. When Siddharth confronted him as to whether he had any evidence to support the allegation Shri Ramakant Prasad stated that he could both create and wipe out evidence and he (Siddharth) can be implicated in many cases, and since he had several persons of his confidence inside jail, he can even get him killed and get his father killed too.

Reports were received from Senior SP Patna and IG Prisons. While SP Patna did not find any fault with the police officials including Shri Ramakant Prasad, IG Prisons indicted him for assaulting Siddharth and threatening him of false implication. IG Prisons in fact also recommended initiation of disciplinary proceeding against Shri Ramakant Prasad and members of the raiding party. In view of the apparent conflict, response was sought from Senior SP Patna but no such response was filed. The matter was fixed for oral hearing and finally heard on 16.9.2011 in presence of Shri Rajesh Ranjan, Advocate appearing for the

applicant, Shri Manoj Kr. Sudhanshu Dy.SP (Hqrs.) Patna and Shri Ramakant Prasad, the then SHO Phulwarisharif P.S. (now Dy.SP Patna Town).

It may be mentioned at this stage that complaint had also been made to the Secretary, Department of Home, Government of Bihar which was made over to IG Prisons for enquiry vide UOI-88/PSH cell dated 26.2.2009. IG Prisons made a spot enquiry along with Shri A.C. Mishra, Director (Administration) of the Jail Department, Shri B.C.P. Singh, Deputy Director (Industry) and Shri S.K. Ambashta, AIG Prisons. The enquiry was also video-graphed (CD was submitted as part of the report). In course of the enquiry, statements of the Jail Personnel and inmates were recorded and the record was inspected. Copies of the statements, registers and the medical (enquiry) report were made part of the report which was submitted to the Home Secretary on 2.3.2009.

IG Prisons went into various aspects relating to administration of the Adarsh Central Jail, Beur with which we are not concerned in this matter. As regards the incident of 26.2.2009 – which is subject matter of the complaint – he recorded a definite finding that Siddharth was assaulted in the incident. As a matter of fact, from the report it appears that he found marks of injury on Siddharth's eyes and legs.

It may at this stage itself be apt to notice the injuries – as noted by the Jail Doctor in course of examination of Siddharth's body on 26.2.2009. The doctor found the following injuries:- (i) bruise and swelling – below and lateral side on the left eye (ii) bruise – lateral side of right eye (iii) bruise – 1"x1" of the right shoulder and (iv) bruises – back of left leg – 1"x5" on lower side of thigh, and two injuries of 1"x5" on calf muscle. The age of injuries was mentioned as 12 hours. In the opinion of the doctor they were caused by hard and blunt substance.

It is thus clear that Siddharth was assaulted inside jail on or about 26.2.2009. It is significant that he immediately on the same day made complaint to this Commission and the NHRC. Complaint was also made to the Secretary, Department of Home and the IG Prisons was asked to conduct enquiry on the same day i.e. 26.2.2009. IG Prisons completed the enquiry and submitted his report on 2.3.2009. He categorically found Shri Ramakant Prasad guilty of assaulting Siddharth. The finding is in accord with medical (injury) report. The report refers to the recorded statement of the Jail Warder Md. Reyaz Ali, amongst others. As per Reyaz Ali's version the assault took place in presence of the Magistrate. IG Prison in his report also indicted the Jail Superintendent for his failure to intervene even though he was present at a not-far-off place. The Commission is satisfied that the allegation of assault of Siddharth at the hands of Shri Ramakant Prasad stands established.

In course of hearing Shri Ramakant Prasad was asked to explain the accusations. He stated that Siddharth caught hold of his hand and twisted his fingers which led to a minor scuffle. He produced copy of the injury report by Dr. Piyush Kumar, Medical Officer, Phulwarisharif Primary Health Centre as per which there was (i) "tenderness with swelling of 2nd to 5th (i.e. index to little) fingers of left arm with dislocation of middle inter phalangeal joint of left middle finger caused by hard blunt object and (ii) swelling measuring 2½"x1" over right elbow caused by hard blunt object". Shri Ramakant Prasad stated that case was registered at Beur P.S. being Beur P.S. Case No.93/09 with respect to the incident in which charge sheet was finally submitted against Siddharth amongst others.

Shri Rajesh Ranjan appearing for the victim applicant was quick to point out that charge sheet was submitted not only under different provisions of the Indian Penal Code (sections 414, 188, 216, 223, 2258, 353/34) but also under sections 20 of the NDPS Act even though there was no evidence and, admittedly, no recovery of any kind from him which shows how he has been implicated – true to the threat held out at the time of the incident, as mentioned above. Shri Ramakant Prasad stated that in the supervision notes of the Dy.SP, the fact that no recovery had been made from Siddharth was mentioned and therefore there is no case under NDPS Act against him. The Commission does not want to go into this issue. This is an aspect which is to be gone into by the Special Judge in course of trial of Special Case No.69/09.

The only point for consideration is whether the complaint about Siddharth being assaulted inside jail at the hands of Shri Ramakant Prasad has been proved. In view of what has been mentioned above, the Commission has no hesitation in recording a finding, in the affirmative. The story that Siddharth caught hold of his hand and twisted his fingers is difficult to accept. It is difficult to believe that a prisoner would do so to a police officer in presence of the police officials and magistrate. Assault on Siddharth inside jail without any provocation or any reason whatsoever is a clear example of violation of human rights for which he is entitled to be compensated and the official responsible for the violation is liable to be proceeded against. As a matter of fact, IG Prisons in his report had also recommended initiation of disciplinary proceeding against the erring officials including Ramakant Prasad.

Summing up, the Commission holds that Siddharth was assaulted in the morning hours of 26.2.2009 inside Adarsh Central Jail, Beur where he was lodged as a convict prisoner, by the then SHO Phulwarisharif Shri Ramakant Prasad (now Dy.SP Town Patna) which amounts to violation of his human rights. For the said

violation, the Commission directs that he be paid a sum of rupees fifty thousand as compensation. The amount shall be paid at the first instance by the State Government and recovered from the salary of Shri Ramakant Prasad.

The Commission further directs the State Government/DGP to take disciplinary action against Shri Ramakant Prasad as recommended by the then IG Prisons.

Compliance report should be submitted within six weeks.

Copy of this order may be sent to (i) Principal Secretary, Department of Home, Government of Bihar (ii) DGP Bihar (iii) applicant Siddharth/Dr. Rita Singh as also to (iv) Shri Ramakant Prasad the then SHO Phulwarisharif now Town Dy.SP Patna for compliance and information as the case may be.

Justice S.N. Jha
Chairperson