

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

File No **BHRC/COMP.** CD-122/10 & CD-69/11

Case of **DOMAN BELDAR**

This file is about custodial death of Doman Beldar son of Sarju Beldar of District Jail Nalanda on 23.04.2010.

Deceased Doman Beldar was admitted in Biharsharif jail as a convict prisoner on 23.04.2010. As per the report, on 11.04.2010 he was reported to be sick. After initial treatment in the jail hospital he was referred to Sadar Hospital Biharsharif where he was admitted on the same day. As his condition did not improve, on 15.04.2010 he was referred to PMCH and sent there on 16.04.2010. He was discharged from the PMCH on 22.04.2010. While he was being brought to Biharsharif he died on the way. The Department claims that the deceased died of tuberculosis and diabetes i.e. due to natural causes and there was no negligence on the part of the jail administration.

The post mortem was held by a team of doctors and as per the post mortem report nothing suspicious was noticed. The cause of death was diagnosed as pulmonary tuberculosis super aided by diabetes mellitus. The doctors preserved the viscera parts for chemical examination but the result of viscera examination is not part of the record. In fairness to the Department, however, it may be mentioned that in the inquest report prepared by a Judicial Magistrate too nothing suspicious was mentioned. The enquiry held in terms of section 176(1A) Cr.P.C. by an Executive Magistrate also revealed nothing adverse. The Magistrate came to the same conclusion that the deceased died as a result of tuberculosis and diabetes i.e. due to natural causes.

The matter was heard in presence of Shri U.K. Sharan, AIG Prisons who appeared on behalf of the Department. The deceased's family was represented by Advocate Shri Kumar Vineet.

Shri Kumar Vineet referred to the response of Phulmati Devi wife of Doman Beldar which contains the sequence of events of the relevant period particularly the manner in which the deceased was treated by the jail administration, the doctors and the manner in which he was taken to Biharsharif after his discharge from the PMCH on 22/23.04.2010 by the police escort. It was stated that proper treatment was not given to the deceased on time and it was only when his condition deteriorated that he was taken to Sadar Hospital Biharsharif. The doctors in the PMCH also acted negligently and callously when they discharged the deceased from the hospital even though he had not fully

recovered. Finally and most importantly, despite his fragile physical condition he was taken to Rajendra Nagar Railway Station (after his discharge from the PMCH) on a rickshaw, with others sitting on the same rickshaw, and made to board a crowded bogie in a local (Danapur-Rajgir) train. The deceased could not stand the hazardous journey and succumb to his conditions. It was stated out that he had been taken to Patna from Biharsharif on 16.04.2010 in a hired vehicle cost of which was paid by the deceased family, and similarly on 23.04.2010 the family was asked to arrange vehicle which they could not due to paucity of money, and in the circumstances he was made to board a general crowded coach of a local train. While his condition was deteriorating, during the journey, the family members accompanying him complained to the police party escorting the deceased but they were totally indifferent and unresponsive.

The Commission finds no reason to reject the version put forward by the deceased family. It is not difficult to visualise the manner in which ordinary prisoners are treated by the administration and it is quite plausible that the family was asked to arrange the vehicle. In the first place, the deceased should not have been discharged from the PMCH, and even if the doctors of the PMCH bona fide thought that further treatment could be provided at Biharsharif, proper arrangements should have been made to take the deceased to Biharsharif. It is not uncommon that families of the prisoners are asked to meet the cost of journeys. In fact, instances have come to the notice of the Commission where they were even asked to pay for the medicines. Taking the deceased to railway station by rickshaw and making him to board a crowded bogie of a local train – the travel conditions of which are not difficult to visualise – were inhuman and insensitive acts on the part of the officials concerned. The Commission is of the view that even though the ultimate cause of death was disease viz. tuberculosis and diabetes, the way the deceased was treated during the end period of his life aggravated his condition and precipitated his death. Being a case of human right violation, the deceased's wife is entitled to compensation.

In the facts and circumstances, the Commission would award compensation of rupees one lakh to Phulmati Devi wife of deceased Doman Beldar – resident of village Belchchi Sharif P.S. Manpur, district Nalanda. The Commission would direct Secretary, Home (Special) Department to pay compensation as aforesaid and submit compliance report within six weeks.

Date: 16.04.2012

Justice S.N. Jha
Chairperson