

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

File No **BHRC/COMP.** 2516/10

Case of **MADHAVI**

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Applicant Madhavi has approached this Commission with a many-fold complaint. The Commission identified five issues out of which issues relating to quantum of fee/remuneration and non-payment thereof were taken up for consideration.

Case of the applicant is that she was earlier paid remuneration @ Rs.220 per day up to August 2004. Thereafter payments were made @ Rs.130 per day. The case of Doordarshan is that the employees/artists were earlier hired directly and paid at the rate fixed by the Directorate. In the year 2004, 'agency' system was introduced. As per the new dispensation since January 2004 employees/artists are now provided by and paid through the agency.

Station Director Patna Doordarshan Kendra, Sri K.D. Kalpit pointed out that quotations are invited from agencies and the party quoting the lowest rate is appointed agent as per the Financial Rules. Employees/artists are then paid at the rate quoted by the agency. That is how payment @ Rs.130 per day was made to the applicant. He stated that whereas there was ceiling on the number/days of engagements in a month earlier, after introduction of the agency system there is no such limitation and the employees/artists are paid for as many days as they work. In this manner even if they are paid at lesser rates, in monetary terms they do not really suffer any loss.

The latter submission deserves to be summarily rejected. Obviously, if an employee/artist works for more days his earning would be more than his colleague who worked on less number of days. Payment has to be commensurate with the work or the number of days of work. It would be tautology to say that payment or earning will depend on number of working days. If work is taken for the whole month, he has to be paid for the whole month lest it would be hit by the mischief of 'Begar' – prohibited under article 23(1) of the Constitution. Taking work on more days but paying the same amount can be no solace to the person on the logic that his earning is the same as before. Thus Doordarshan cannot contend that an artist/employee can now work for the whole month and therefore should not have grudge if his earning is the same. What is material and important is the rate at which he is paid – whether he is paid on daily or monthly or piece rated basis. The submission is clearly misconceived and accordingly rejected.

As regards the main submission that payment was made at the rates decided between the Doordarshan on the one hand and the agency on the other – and dependant on the rates quoted by the latter, the Commission would concede the position that if agencies are selected/appointed on the basis of lowest rates, the party quoting the lowest rates is normally selected as per the Financial Rules and in that situation agency would pay the employees at the agreed rates. The Commission however is of the view that the agreed rate cannot be less than the minimum wages. Further, it must be commensurate with the basic needs of the person, that is to say, in accord with the concept of human rights. Right to life does not mean simply right to live; it means right to live a quality life with dignity. It is true that employees/artists agreed to work at the rates fixed/finalized between the agency on the one hand and the Doordarshan on the other, but clearly, they had or have no choice. Being unequal in status and in no position to bargain, they have no option but to sign on “dotted lines”. But this does not mean that they cannot raise grievance and complain of violation of their human rights.

As indicated above, in view of the Financial Rules which lays down that the lowest tender/rates should be accepted, there may be justification for the authority concerned of the Doordarshan to accept the lowest quotation or rates even though they are less than the minimum wages. In that view, the Commission would observe that the Financial Rules should be suitably amended to the effect that the rates quoted by the party/agency must not be less than the minimum wages which should cater to the basic needs of the employees/artists.

In course of hearing of this matter earlier, it transpired that fee was fixed by the Doordarshan Directorate @ Rs.266 plus 5 holidays in a month from 25.08.2006. In response to a Rajya Sabha query the Doordarshan Kendra Patna vide no. DDK/Pat/70(2)/2010-S/668 dated 2.7.2010 gave assurance that fee of the employees will be “as per the fee structure of Doordarshan Directorate, New Delhi and on the basis of minimum wages rate of this state”. In its order dated 15.02.2012 the Commission observed that on general principles, the higher of the two i.e. more beneficial to the employees should be the appropriate fee or remuneration payable to the employees/artists.

It is the admitted position that applicant was paid Rs.130 from September 2004 up to 14.12.2009. It is also said that she has not been paid remuneration from December 2009 to August 2010 (when the present application was filed in the Commission) – which is the other issue involved in the complaint for redressal of which notice was issued to the concerned agency, namely, M/s Pooja Vatika Enterprises which was represented at the time of hearing by Sri Sanjay Kumar

Singh. As regards the issue of non-payment, the stand of the Doordarshan is that amount was paid to M/s Pooja Vatika Enterprises and the applicant has to sort out the matter with them.

In course of hearing, it was also submitted on behalf of the Doordarshan that any direction for payment of fees/remuneration @ Rs.220 up to 24.08.2006 and thereafter @ Rs.266 may lead to similar claims in seventy and odd Doordarshan Kendras across the country. In other words, it will have wide repercussions. The Commission would observe that the complaint of any person has to be decided on the principles of fair play, good conscience and justice. The bogey of similar claims being raised across the country is of little consequence. The Commission would further observe that if the decision in the instant case results in improvement in the service conditions and other similar employees/artists get benefited, so be it. The Commission would rather feel happy that as a result of its intervention justice has been done to the employees and artists at large.

Having thus duly considered the matter, the Commission would direct Doordarshan Kendra, Patna through its Station Director to pay the balance amount to the applicant treating her due remuneration as Rs.220 per day up to 24.08.2006 and Rs.266 per day thereafter. This should be done within a period of two months.

The Commission would also ask the Station Director, Patna, Doordarshan Kendra to use his good offices to get the dispute about the non-payment of remuneration between December 2009 and August 2010 sorted out with the M/s Pooja Vatika Enterprises during this period.

Compliance report should be submitted by 18.08.2012.

Copy of this order be sent to Station Director, Doordarshan Kendra Patna and the applicant.

Date: 11.06.2012

Justice S.N. Jha  
Chairperson