

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

File No **BHRC/COMP.** 2402/10

Case of **PRABHASH CHANDRA SHARMA**

This file was disposed by order dated 31.10.2011. Later, Patna Women's College through its Principal file application for review of the order on the ground that the order was passed without issuing notice to the College and giving it any opportunity of hearing. In the meantime, the applicant had filed application complaining of non-implementation of the Commission's direction regarding refund of fees. In the circumstances, notice was issued to the applicant and Principal, Patna Women's College and the matter was heard on 25.7.2012.

It may be mentioned here that the file was opened on the complaint of applicant Prabhaskh Chandra Sharma (Vikas Chandra) alleging that his sister, Rupam Kumari, was subjected to ragging in the Patna Women's College/Hostel soon after her admission in July 2010 forcing her to leave the college. The Commission called for report from the Vice Chancellor, Patna University. The University submitted report of the 'Ragging Committee' which had made inquiry into the alleged incident and submitted its finding to the University. On consideration of the said report, the Commission fixed the case for oral hearing. While issuing notice to the applicant and the Vice Chancellor, the Commission directed that the alleged victim Rupam Kumar should also appear in person at the time of hearing. After two adjournments, the matter was finally heard on 24.10.2011. At the time of hearing, the Commission talked to Rupam Kumari in camera with the consent of the applicant and her father. A summary of her statement was reduced to writing which she signed and same was kept on record. On consideration of the entire matter, the Commission held, vide its decision dated 31.10.2011 (supra), that "no case of ragging, as such, is made out. The Commission is inclined to think that Rupam Kumari failed to adjust herself to the regulations and controls fixed by the College/hostel management". In short, the Commission found that Rupam Kumari could not adjust to the new surroundings of the College/hostel. Having held that the Commission directed the University to refund the money deposited by Rupam's father/guardian "as per rules/norms" within four weeks. It may be mentioned that the said direction was made on the statement of Sri Kriteshwar Prasad, Proctor, Patna University to the effect that the "un-utilised money has to be refunded". It is this part of the order regarding refund of fees/money that the College wants to be reviewed.

The stand of the College in short is that the refund of fees/money is not permissible as per the guidelines of the UGC and the regulations of the University which unfortunately could not be brought to the notice of the Commission as no notice was issued to the College.

In the facts and circumstances – as refund was to be made by the Patna Women’s College, it is clear that notice should have been issued to it being a necessary party. Non-issuance of notice was clearly an omission and therefore the Commission decided to entertain the review petition and consider the same on merit along with application filed by the applicant complaining of non-implementation of the Commission’s order. The matter was thus heard in presence of the applicant and Principal, Patna Women’s College on 25.7.2012.

In course of hearing – apart from placing facts relevant to the issue of refund – the Principal brought to the Commission’s notice documents impinging on her own reputation and reputation of the College. It also came to notice that the applicant has filed protest petition in the criminal case (Kotwali P.S. Case No.351/2010) earlier lodged by him against the College authorities. In the light of the discussions and observations in course of hearing the applicant stated that he would not press the protest petition and file an appropriate application before this Commission by 6.8.2012.

The applicant did file application on 6.8.2012 but not as per the discussions and assurance; instead, while reiterating his plea that the decision of the Commission has not been implemented despite passage of months, he took the stand that “the matter with the BHRC is now sub judice in the court of Hon’ble CJM Patna” suggesting that the Commission should stay its hands in the matter since the Commission does not intervene in matters which are sub judice in courts.

What is sub judice in the court of CJM is the protest petition filed by the applicant to the police report to the effect that on account of insufficient evidence the case (Kotwali P.S. Case No.351/2010) should be closed. On the other hand the matter pending with the BHRC relates to the question of refund and the implementation of the Commission’s order, that is, a different subject altogether. The sub judice theory therefore is not applicable in this case.

On the point of refund the Principal brought to the Commission’s notice the guidelines of the UGC contained in Public Notice dated 23.4.2007 and the regulations of the University. The relevant part of the said public notice runs as follows:

“The entire fee collected from the student, after a deduction of the processing fee of not more than Rs.1000/- (One thousand only)

shall be refunded and returned by the Institution / University to the student / candidate withdrawing from the programme. Should a student leave after joining the course and if the seat consequently falling vacant has been filled by another candidate by the last date of admission, the Institution must return the fee collected with proportionate deductions of monthly fee and proportionate hostel rent, where applicable.”

The regulations of the University may also be quoted as follows:

“If the student left the course before the start of the classes and another student was admitted on that particular seat, then the deposited fee minus rupees one thousand be refunded as per guidelines of the UGC. No refund will be made if the concerned student left the course after start of the class”.

Categorical stand of the College is that Rupam Kumar left the College after commencement of the course and that the seat against which she had taken admission in B.A. Part I course remained vacant for the whole of the academic year (2010-2011), and also, the seat at the hostel remained vacant for the whole academic year. There is no rebuttal by the applicant to the stand of the College. It is thus clear that in view of the UGC guidelines and the University regulations, the fee/money deposited on behalf of Rupam Kumari cannot be refunded. It is also clear that had these facts been brought to its notice, the Commission would not have directed any refund. This obviously happened because the order was passed without giving opportunity of hearing to the College. In the circumstances, operative part of the order dated 31.10.2011 directing refund of ‘unutilised money’ is recalled. Indeed, the direction to refund the money was hedged with the condition that this should be done “as per the rules/norms”. If the rules/norms did not permit refund, clearly, the College was not bound to make any refund.

In the above view of the matter, refund being not permissible, there is no question of getting the order implemented. The applicant’s application in this regard therefore can be accepted.

Before closing the file the Commission deems to appropriate to refer to the insinuations made by the applicant against Patna Women’s College and its Principal. The College has brought on record cuttings from various newspapers impinging on the reputation of the College. The Commission does not want to take cognizance of the newspaper reports; they indicate the views – lopsided, distorted and incomplete though – of the respective authors, for which the applicant cannot possibly be blamed. However, the Commission would like to refer to two e-mail communications by the applicant titled “College sponsored ragging just to embezzle the hostel fee” dated 15.7.2010 and “Quality award to a

quality killer" dated 22.11.2010 sent to different authorities. The latter communication may be quoted in extenso as under:-

"Sir/Ma'm

Kindly informed that the Principal Doris Desouza of Patna Women's College, Patna use ulterior means to extort money from the poor students by sponsoring ragging and torture by its henchwomen (some of its students) forcing fresher and new comers to leave the hostel. The Principal take admission of 3 to 4 students one after another for only one seat. She manages to earn nearly 25,000 Rs. from each student illegally and immorally.

The Principal does all this brazenly. Many inquiry committees have been investigating to find the bitter truth perpetrated by the Principal.

An FIR has also been filed on 13 October 2010 against the Principal, hostel superintendent, hostel warden and senior students (henchwomen) of criminal offence. FIR number Kotwali, Patna P.S. Case No.351/10 is directly against the Principal and others.

She has also told lie to the District Magistrate, Patna through a ragging committee report on 24.08.10 that there is no case of college sponsored ragging of victim Rupam Kumari 1st year B.A. Eco student forcing her to leave the hostel as well as college and the matter has been compromised amicably.

She has been made main accused in the case by Kotwali, Patna police yet she is holding the post, using college money to contest cases and spending time with police, lawyers and in court trying to defend her in the case instead of giving time to college and its student.

She is violating the RTI Act by not replying two RTI applications on 09 September 2010 and 19 October 2010 respectively.

I, therefore, appeal you to take the serious allegation against the Principal, hostel superintendent, hostel warden and others into consideration and take necessary action to clear the way of any awards to the college headed by such corrupt Principal.

Regards

Prabhash Chandra Sharma @ Vikas Chandra

Brother of Rupam Kumari

R/o- Pahalwan Ghat, North of Duzra Masjid,

P.S.- Buddha Colony, Patna, Bihar 800001 (India)

Mobile:- 9334687891 email vikaschandrabudha@yahoo.co.in"

In the opinion of the Commission, the comments made by the applicant as aforesaid were highly inappropriate, unjustified and in bad taste. As a matter of fact, in course of hearing the Commission observed that they amount to violation of human rights of the Principal for which applicant should express regrets. It was in this context and for this purpose that the applicant stated that he would file "an appropriate application" by 6.8.2012 – referred to above, which he did not

do. Though the remarks/comments made by the applicant are demeaning and impinging on the dignity of the College Principal, Sister Doris D'Souza, the Commission cannot take any action; it can take cognizance of violation of human rights by public servants alone, and in that view while condemning the attitude of the applicant, would like the matter to rest, so far as the Commission is concerned.

Copy of this order may be sent to the applicant and Principal, Patna Women's College, Patna.

Date: 23.8.2012

Justice S.N. Jha
Chairperson