

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

File Nos. **BHRC/COMP.** 934/11 & 717/11

Case of **Dr. MADHU PRABHA SINGH**

This matter was heard in presence of the applicant's Advocate, the then District Magistrate, Gopalganj Sri Pankaj Kumar Pal (he was also represented by an Advocate), the then S.P. Gopalganj Smt. K.S. Anupam and SDO Gopalganj Sri Rajiv Ranjan on 8.2.2013 and the decision was reserved.

The complaint is about an incident of 10.3.2011. In its order dated 22.11.2012 the Commission noticed that the district administration as well as the applicant filed cases against each other with respect to the incident which is a subject matter of the present proceeding and it is for consideration as to what extent and in what manner the Commission can make enquiry into allegations of human rights violation.

It is relevant to mention here that in the case instituted by the district administration (Gopalganj P.S. Case No.76/11 giving rise to GR. 563/11 and Tr. No.2460/12) the court took cognizance under sections 341, 323, 353, 504, 506, 290 and 120B IPC against the applicant and one Manish Kumar. The applicant filed application for further investigation under section 173(8) Cr.P.C. which was dismissed vide order dated 31.10.2012 on the ground that such application can be filed only before the CJM and not in the trial court after cognizance is taken. Parties were at loggerheads on the legal position about maintainability of the application for further investigation. Being a question of law to be thrashed out in the court concerned the Commission would not like to go into the issue. But all said, as on date the position is that cognizance has been taken against the applicant in the case instituted by the district administration. The case instituted by the applicant (Complaint Case No.542/11) on the other hand stands dismissed for non-prosecution vide order dated 8.1.2013.

Notwithstanding the pendency of the case instituted by the district administration i.e. Gopalganj P.S. Case No.76/11 the Commission went into the question whether any intervention by this Commission is called for. Both sides made submissions at length. A video CD was produced on behalf of the applicant which does not contain any footage about the incident.

Briefly, the incident took place in course of ongoing examination in M.M. College, Gopalganj. There are conflicting versions regarding genesis and manner of the incident. While the applicant has alleged violation of her human rights by physical assault etc. there is a counter version as per which it was the applicant

who started it all. Contorverting the applicant's version of manhandling by the District Magistrate, it is said that, in stead, it is the applicant who tried to slap the District Magistrate.

The raison d'etre of the incident apparently was use of unfair means in the examination. The Commission is inclined to think that unfair means was brazenly being used by the examinees and the situation became somewhat tense when the District Magistrate tried to intervene, and rightly. Whatever happened thereafter was on the spur of the moment. It was not deliberate on the part of either the applicant or the officials including the District Magistrate. The Commission is of the view that an unintended act done in the heat of the moment may not constitute violation of human rights and even if it does, technically, it does not call for any intervention by the Human Rights Commission. As fairly submitted by Smt. K.S. Anupam, both sides should forget the incident and forgive each other for whatever happened, and not pursue the matter further.

Having thus given its anxious consideration to the submissions made on behalf of either side, the Commission is not inclined to pursue the matter further.,
File is accordingly closed.

Copy of this order may be sent to the (i) applicant (ii) Sri Pankaj Kumar Pal, the then District Magistrate, Gopalganj, presently District Magistrate Bhojpur at Ara (iii) Smt. K.S. Anupam, the then S.P. Gopalganj, presently Sr.S.P. Bhagalpur and (iv) Sri Rajiv Ranjan SDO Gopalganj.

Date: 11.02.2013

Justice S.N. Jha
Chairperson