

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

File No **BHRC/COMP. 3916/12**

Case of Manish Kumar Chaudhary

This matter was finally heard on 23.8.2013 in presence of applicant Manish Kumar Chaudhary, Dy.S.P. (Law & Order) Smt. Mamta Kalyani – appearing on behalf of Sr.S.P. Patna – and S.I. Ramakant Tiwary.

The complaint of the applicant is about his arrest & detention and misbehaviour including physical assault by the Digha police at Digha Police Station on 28/29.10.2012. The case of the applicant is that he had gone to meet Sri Amitabh Kumar Raman, an acquaintance at his Rajeev Nagar plot in the afternoon of 28.10.2012 at about 3 P.M. when he was accosted by the police personnel of Digha P.S., and brought to the police station. They not only abused him at the Police Station, they also forcibly took cash of Rs.6,400 from his pocket and detained him in the hazat. When his father came to meet him he too was threatened and abused. He was finally allowed to leave the police station on the next day after taking his signatures on some blank papers. The applicant has also alleged that he was being forced to withdraw his complaint which he had made to senior police officials. The applicant has enclosed copy of prescription of Dr. Vinay Kumar Singh dated 30.10.2012 to substantiate his case of assault.

Report was called from Sr.S.P. Patna who brought on record the enquiry report of Addl. S.P. (Law & Order) dated 20.3.2013. While denying the allegations made in the complaint the report stated that Ram Ishwar Singh, a Junior Engineer of the Bihar State Housing Board, had lodged a case (Digha P.S. Case no.121/12)

about illegal construction on the land of the Housing Board. The police party went to the place on 29.10.2012 and brought the applicant – seen running away from the place – to the Police Station at 1:30 PM. After interrogation and enquiry he was released on P.R. bond at 3 P.M. The report stated that the applicant in course of interrogation admitted that he had gone to see the under-construction house of Amitabh Kumar Raman when the police made the raid.

Not satisfied with the report the Commission issued notice to S.I. Ramakant Tiwary under section 16 of the Protection of Human Rights Act pursuant to which he appeared and filed his written defence and the matter was finally heard on 23.8.2013 as stated above.

The Commission is of the view that the action against the applicant was totally arbitrary, uncalled for and unjustified. There is no allegation of any illegal construction on the land of the Housing Board or commission of any offence by the applicant. In fact, there is no case against him. As per the police version the applicant is a contractor and engaged in construction work. In the first place, the applicant has denied the police version about his being a contractor. According to him he had gone to see Amitabh Kumar Raman, being an acquaintance. Even if it is assumed that the applicant is a contractor, it is not the case of the police that he had committed any criminal offence. It is to be kept in mind that Digha P.S. Case no.121/12 was registered on 17.7.2012 which means that the offence – which was subject matter of the case – had been committed on or prior to the date of the institution of the case i.e. 17.7.2012. The applicant does not figure as an accused in that case and if he had committed some offence – by visiting the place or doing something constituting cognizable offence – the

police should have registered a fresh case – against him. Admittedly, no case was instituted which is pointer to the fact that he was/is not an accused. If that is so, there was absolutely no justification to take him to police station and detain him there – leaving aside other parts of the complaint about which there may be a dispute. The Commission is inclined to think that on a specious charge – as in the present case – any person visiting a friend or acquaintance can be taken to police station and detained. And if that were so, no person would be safe with the police. The Commission is therefore not inclined to let go of the matter.

The Commission is of the view that for the acts of committed by the police and the resultant harassment and humiliation to the applicant, he is entitled to be compensated. In the facts and circumstances, the Commission would award compensation of rupees twenty thousand to be paid by S.I. Ramakant Tiwary.

The Commission accordingly directs Sr.S.P. Patna to deduct sum of rupees twenty thousand from the salary of S.I. Ramakant Tiwary – posted at Rupaspur P.S. and pay the money to the applicant – within a period of six weeks.

Compliance report be submitted by 21.10.2013.

Copy of this order may be sent to (i) the applicant, (ii) Sr.S.P. Patna and (iii) S.I. Ramakant Tiwary – now posted at Rupaspur P.S., Patna for information and necessary action, as the case may be.

Date: 27.08.2013

Justice S.N. Jha
Chairperson