

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

File No **BHRC/COMP.** 519/11

Case of **PREETI SINGH**

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Applicant Preeti Singh has approached this Commission for intervention and suitable action against officials for damage to property and deprivation of source of livelihood etc.

The case of the applicant is that she installed a stone crusher by the name of M/s Preeti Stone Works, Gere Road, Manpur, district Gaya, after obtaining 'no objection'/registration/license from Bihar State Pollution Control Board, Deputy Commissioner of Commercial Taxes, Gaya Circle and Assistant Director, Mines & Geology, respectively. On 10.3.2011 a posse of police personnel and officials came to the factory site and dismantled/destroyed the structure and damaged the crusher even though the documents were shown to them, claiming that they were acting on the orders of the District Magistrate and the Superintendent of Police.

Report was called from Divisional Commissioner and Bihar State Pollution Board. In their report dated 4.5.2011 the Pollution Control Board stated that it had indeed granted 'no objection' and issued consent order valid upto 31.12.2011. The report further stated that the stone crushing crusher had been installed as per laid down guidelines. The District Magistrate in her report dated 13.2.2012 however took a stand that as many as 124 persons were engaged in illegal storage of stones and stone crushing operations at different places within Mufassil P.S. – as was evident from the report of the Mines Inspector Gaya. The list submitted by him included crusher of the applicant. As the storage and crushing operation was in violation of the provisions of the relevant rules viz. the Bihar Minor Mineral Concessional Rules 1972 and the Bihar Mineral (Prevention of Illegal Mining, Transporting and Storage) Rules 2003. All 124 crushers including the applicant's crusher were therefore 'demolished' (dhwast). The District Magistrate thus took the plea that the claim of the applicant was not admissible.

The matter was heard on 24.5.2012 in presence of applicant and her Advocate and Deputy Director, Mines, Gaya who appeared on behalf of the District Magistrate. It would be appropriate to extract, in intenso, the relevant operation of the proceeding of 24.5.2012 as under: -

"There does not appear to be any dispute that the building/structure in which the applicant was doing stone crushing business was demolished by the District Administration. Deputy Director, Mines stated that the applicant was granted license for storage of stones in form 'L' but she was carrying on crushing business without any license as required under Rule 7 of the 2003 Rules. Shri Arvind Kumar, Advocate submitted that even if the activities carried on by the applicant was illegal, the Administration had no power to demolish the building. For illegal activities, if any, the person could be prosecuted but there is no power in the Acts/Rules which permits demolition of building/premises. Deputy Director, Mines, fairly conceded that there is no power as such to demolish the building, but submitted that the applicant did not pay heed to the repeated notices for closing the crushing business leaving no option to the Administration but to dismantle the so called building which was really a temporary structure. Sri Arvind Kumar referred to the photographs of the demolished building/ structure in support of the applicant's case about the building being a permanent RCC structure.

The Commission finds substance in the applicant's plea about demolition of the building being illegal. If the applicant failed to comply with the notices regarding closure of the stone crushing business, she could be prosecuted and further proceeded against as per law, but the structure could not be dismantled. What was illegal was the activities or the business carried on in the structure; the structure as such was not illegal, and therefore the same could not have been dismantled/demolished. For unauthorised demolition of the structure the applicant is entitled to monetary compensation."

Having said thus the Commission gave further opportunity of hearing to the District Magistrate to submit response as to why suitable compensation be awarded to the applicant. After few adjournments the District Magistrate submitted a 'compliance report' dated 2.1.2013. A joint enquiry report by Addl. Collector, Gaya and Assistant Director, Mines & Geology dated 28.12.2012 was also brought on record. The matter was finally heard on 4.1.2013 in presence of applicant's Advocate Sri Arvind Kumar and Addl. Collector, Gaya Sri Ram Vilas Paswan & Assistant Director, Mines Sri Kapoori Tanti – appearing on behalf of the district administration.

Sri Arvind Singh submitted that the Commission has already given its finding on merit of the complaint and it has been held that the demolition of the structure was illegal and unauthorized and the applicant is entitled to monetary compensation. The only point which remains to be considered is the quantum of compensation. On behalf of the district administration, the

facts stated in the two reports were reiterated. It was submitted that the stone crushing operations were violative of different provisions of the Rules of 2003 and 1972 as also provision of the MMRD Act. As the persons – as many as 124 – were repeatedly indulging in the illegal acts, the administration thought it appropriate to demolish the very structure so that they may not re-start the business again. It was submitted that the recourse to seizure and penalty provisions is not sufficient for stopping illegal operations.

The Commission is unable to accept submissions made on behalf the administration. It is axiomatic that every violation invites penalty and if the applicant (and or other similarly situate persons) had committed any violation they could be dealt with only as per the procedure laid down and inflicted penalty as provided by law. The Commission does not agree with the submission that the penalties provided for the violation are insufficient. As noticed in the earlier orders, apart from seizing the offending articles, the violators can also be criminally prosecuted. Criminal prosecution and conviction of any person leaves permanent scar mark giving rise to so many disabilities under law and therefore it cannot be said that the criminal prosecution is an insufficient remedy. If despite coercive orders the person concerned does the same thing again, it may be failure of the administration but such failures cannot justify demolition of the building/crusher altogether. In any view, if the penalty is insufficient it is for the law makers to consider the same. The administration is only supposed to implement the law as it stands. There being no law to sanction demolition/dismantling of the structure, it is clear that the impugned act was bad and illegal. As the demolition deprived the applicant of her means of income having bearing on the question of livelihood and therefore involves violation of human rights. The Human Rights Commission in cases of deprivation or impairment of the source of livelihood is supposed to step in and intervene. The Commission cannot direct restoration of status quo ante but it can award monetary compensation.

There is dispute about the extent of damage caused to the structure/crusher. Both sides produced photographs to substantiate their version. The Commission does not want to make any assessment of the damage. The forum of Human Rights Commission cannot be converted into a claims tribunal and the Commission therefore is not required to assess and determine the actual loss suffered by the applicant. The jurisdiction of the Commission emanates from and relates to violation of human rights and the Commission is of the view that a token compensation in affirmation of

violation of applicant's human rights would suffice the purpose. In the facts and circumstances, the compensation is quantified as twenty-five thousand rupees.

In the result, the Commission directs the District Magistrate Gaya to pay sum of twenty-five thousand rupees as compensation to the applicant within a period of six weeks and submit compliance report to the Commission.

Put up on 25.2.2013 awaiting compliance.

Copy of this order may be sent to the District Magistrate, Gaya and the applicant for compliance and information, as the case may be.

Date: 9.1.2013

Justice S.N. Jha  
Chairperson