

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

File Nos. **BHRC/COMP.** 1704/12; 1705/12 & 1706/12

Cases of **Smt. USHA SHARAN, Smt. SUNITA SINGH (Raja Ram Singh) & Smt. KIRAN YADVENDU.**

These three complaints by Smt. Usha Sharan, Smt. Sunita Singh & Smt. Kiran Yadvendu were heard together as analogous matters since they relate to the same incident.

The complaint, briefly, is that on 2.5.2012 the people at large assembled to protest the inaction of the police in arresting the culprits of the murder of Devendra Kumar @ Chhotu – Mukhiya of Sonhatthu Panchayat within Haspura Block of Aurangabad district, on 29.3.2012 – registered as Aurangabad Town P.S. Case No.155/12. Permission of the Sub Divisional Officer, Aurangabad had been obtained for the purpose. In course of demonstrations the police led by S.P. Aurangabad Dr. Siddhartha Mohan Jain beat the protestors indiscriminately. In the process, amongst others, applicants Usha Sharan & Kiran Yadvendu and husband of applicant Sunita Singh, namely, Raja Ram Singh were also beaten and they sustained injuries. Apart from the S.P, allegations of assault were made against Dy.S.P. Sadar Aurangabad Shri Sanjay Kumar and SHO Aurangabad Town P.S, S.I. Vijay Kumar Gupta.

Having regard to the fact that complaint was directed against an S.P. rank officer, amongst others, IG Bihar Human Rights Commission Dr. Nirmal Kumar Azad was asked to make investigation and submit report which he did. Later, notice in terms of section 16 of the Protection of Human Rights Act was issued to the officials concerned, namely, Dr. Siddhartha Mohan Jain, Sri Sanjay Kumar and S.I. Vijay Kumar Gupta to submit their written defence and appear for hearing on 29.10.2012. After a few adjournments the matter was finally heard on 11.4.2013 in presence of applicants Usha Sharan & Kiran Yadvendu; the third applicant Smt. Sunita Singh was represented by husband Raja Ram Singh, the alleged victim of the incident. The officers were also present in person at the time of hearing. It is relevant to mention here that both sides submitted CDs with respect to the incident which were played in their presence, and they are part of the record.

It may not be out of place to mention that the PUCL (Bihar State Unit) made an independent enquiry and submitted its enquiry report which is part of the record. PUCL was represented by Sri Praveen Kumar Madhu on earlier dates; however, none appeared on its behalf on the date of final hearing.

On perusal of the record it appears that there was a general resentment against the police for supposedly protecting the real culprits involved in the murder of Devendra Kumar @ Chhotu; a protest meeting was accordingly organized under the banner of 'Chhotu Mukhiya Hatya Virodhi Sangharsh Morcha' for which the permission was obtained from the competent authority, namely, SDO Aurangabad.

There are conflicting versions of the course of events that followed. The Commission would find it difficult to exactly figure out the sequence of events. However, from the video footages it appears that at about noon – to be precise, at 12.02 PM (as per video footage), a section of the crowd started pelting stones and committing acts of vandalism, causing damage to public property. The police initially tried to reason out with the protestors and in the beginning, by and large, remained mute spectators. At about 12.16 PM the police lobbed tear gas shells. The crowd started fleeing but kept pelting stones. After sometime, the mob tried to enter the collectorate compound and they set the government vehicle (VAJRA) on fire. At that stage, the police resorted to firing. Soon after the District Magistrate, S.P. and other officials are seen moving on the road making announcements regarding promulgation of prohibitory order under section 144 Cr.P.C. and asking the public to keep peace.

On behalf of the applicants attention was drawn to the photos/video footages showing the broken chairs at the meeting ground and Raja Ram Singh in torn clothes being physically assaulted by the policemen despite his remonstrations and making gestures of being hurt. Some others also likewise are seen to have been assaulted.

From the rough sketch of the place of occurrence – prepared by Dr. Siddhartha Mohan Jain himself in course of hearing and kept on the file – it appears that venue of meeting was Badri Narayan Market close to Ramesh Chowk – some 300 meters away from the Collectorate. As per the written defence of Dr. Jain, approximately 3000 people had gathered at the meeting near Badri Narayan Market. The meeting was slated to be held at about 10-11 AM. Going by the time shown in some of the video footages – as mentioned above, it appears that a section of the protestors moved towards the Collectorate at about 12 noon. By that time, they apparently had become unruly and – as it always happens on such occasions – the anti-social elements had taken command of the situation. They not only pelted stones, they also engaged in acts of arson and destruction of public property. Two government vehicles including VAJRA were set on fire followed by police firing.

It is to be kept in mind that this Commission is not supposed to make enquiry regarding the course of events and give its verdict as to whether the police action which followed the pelting of stones, destruction of public property etc. including firing, was justified or not. That is not the subject of complaint. The complaint is about the police excesses on peaceful protestors.

The Commission is satisfied on seeing the visuals that Raja Ram Singh was mercilessly beaten by the police. There is nothing on the record to indicate that he committed any act of vandalism, destruction of property etc. or that he incited the people to engage in such acts. Raja Ram Singh is a former two-time member of the Bihar Legislative Assembly (MLA), member of the Central Committee of the CPI (ML) and National General Secretary of the Akhil Bhartiya Kisan Mahasabha. As a public figure and an activist, he had every right to participate in the protest meeting which had been organized to highlight the police inaction.

Similarly, applicant Usha Sharan is the District Convenor of All India Dalit Mahila Adhikar Manch and applicant Kiran Yadvendu is an ex-Mukhiya, and as public figure they had right to participate in the protest meeting. They were also allegedly physically beaten by the police in the occurrence even though were simply bye-standers. It may be relevant to mention here that they met the Chairperson of the Commission and showed their injuries on their bodies in presence of the then Secretary of the Commission Smt. Vandana Kini while presenting complaints on 9.5.2012. The Commission found clear marks of injury on different parts of their body. Photographs showing marks of injury have been annexed and they are part of the record. There are no specific visuals showing them being assaulted by the police but the Commission is inclined to think that they too sustained injuries as a result of the beatings by the police in the same occurrence. As in the case of Raja Ram Singh, there is nothing to indicate that they either committed any acts of vandalism etc. themselves or incited others to commit such acts. The police action viz. beatings, therefore was uncalled for and unjustified.

As noted above, group of protestors out of the 3000 strong crowd had moved towards Collectorate and it is apparently they who committed acts of vandalism and arson etc, and for the acts committed by them, Sri Raja Ram Singh or Smt. Usha Sharan and Smt. Kiran Yadvendu cannot be held responsible or liable. The Commission is in fact inclined to think that amongst others, they were singled out because they were perceived to be persons behind the protest against the police, accusing it of inaction and being in collusion with the culprits of Devendra Kumar @ Chhotu's murder.

In the facts and circumstances, the Commission is satisfied that all the three victims suffered violation of human rights at the hands of the police and are entitled to compensation.

The specific allegation of the applicants is against S.P. Dr. Siddhartha Mohan Jain, Dy.S.P. Sanjay Kumar and S.I. Vijay Kumar Gupta. However, except the complaint version – which is obviously denied by the officials – there is no material on record to lead to the conclusion that they themselves beat the victims. While holding the victims entitled to compensation for the acts committed by the police at large, the Commission has mainly relied on the visuals/video footages and therefore while considering the culpability of the officials, the Commission cannot adopt a different standard. The Commission is accordingly inclined to give benefit of doubt to them which means that the burden of compensation which the victims are entitled to receive – is not to be borne by them. In cases of police excesses or harassment, the Commission usually awards compensation payable by the officials found guilty of the excesses. In the absence of any cogent evidence, the Commission would find it difficult to award compensation against the officials which means that compensation is to be paid by the State Government.

In the facts and circumstances, the Commission is of the view that the compensation of rupees one lakh in the case of Raja Ram Singh and rupees fifty thousand each in the cases of Usha Sharan and Kiran Yadvendu would be just and adequate.

The Commission accordingly directs the State Government through Secretary, Department of Home, to pay compensation of rupees one lakh to Shri Raja Ram Singh and rupees fifty thousand each to Smt. Usha Sharan and Smt. Kiran Yadvendu within six weeks.

Put up on 28.6.2013 awaiting compliance report.

Copy of this order may be sent to (i) Principal Secretary, Department of Home (ii) applicants, (iii) Dr. Siddhartha Mohan Jain (now S.P. Buxar), (iv) Sri Sanjay Kumar (Now SDPO Sadar Sitamarhi), (v) S.I. Vijay Kumar Gupta (now JSI Nawada Town P.S.), (vi) S.P. Buxar and (vii) PUCL (Bihar State Unit), 204, Neelgiri Bhawan, West Boring Canal Road, Patna for information and compliance, as the case may be.

Date: 09.05.2013

Justice S.N. Jha
Chairperson