

BIHAR HUMAN RIGHTS COMMISSION

9, Bailey Road, Patna

File No. BHRC/Comp.943/12

Case of : Sh. Ashok kr. Singh:- Arbitrary forfeiture of remission earned by a life convict in Bihar Sharif Jail.

This is regarding complaint of Sh. Ashok Kumar Singh, vill. Dharampura, P.O Bindi Dih, P.S Rajgir, District **Nalanda** for release of his father Sri. Diksha Singh, a life convict incarcerated in Bihar Sharif Jail. According to the initial response received from **A.I.G, Prisons**, Bihar the case of Sh. Diksha Singh was considered in the meeting of **State Remission Board** on 06th Feb, 2013. It was decided by the board that he is yet to complete his Jail term, hence his case would be taken up in the next meeting of the board. State Remission Board is headed by the Principal Secretary, Home Deptt. with Law Secretary, IG, Prisons & Correctional Services, IG, C.I.D and others as members. According to the minutes of the meeting Sh. Diksha Singh had completed 18 yrs., 11 months., 26 days on 20th Dec, 2012 (when the proposal was sent from jail) and was to complete **Twenty** years (including remission) on **24th Dec, 2013**. According to the petitioner two subsequent meeting of the board were held but the case of Sh. Diksha Singh was not put up for consideration by the board.

2. A.I.G, Prisons, was asked to appear before the Commission on 21st March, 2014. A.I.G, Prisons appeared and submitted his report mentioning that the case of Sh. Diksha Singh was not put up before the board because **out of the total remission he had earned between 2002 to 2008, a total of 665 days were forfeited by the then Jail Superintendent Bihar Sharif** making the case unfit for consideration by the board.

3. A.I.G, Prisons, informed that section 395(ii) of **Bihar Prison Manual, 2012** gives powers to a Jail Superintendent to forfeit remission earned **not exceeding 15 days** and section **396(ii)** gives **powers to forfeit earned remission exceeding 15 days with no cap on upper limit**. A.I.G, further explained that by exercising these powers, the then Jail Superintendent, Bihar Sharif Sh. Lalan Kumar Sinha (now posted at Bhojpur) forfeited a total of 665 days of remission earned by Sh. Diksha Singh for jail offences committed between **28th Jan to 01st June, 2013 i.e in four months**. Incidentally Sh. Lalan Kumar Sinha remained Superintendent, Bihar Sharif, Jail from 2009 to June, 2013.

4. The petitioner(Sri. Ashok Kumar Singh) who was also present during hearing, informed that his father had given evidence against Sh. Lalan Kumar Sinha in a **judicial inquiry** relating to death of prisoner Munna Singh in Bihar Sharif Jail. The Jail Superintendent got annoyed thereafter and became vindictive. The petitioner further asserted that history sheet of his father incarcerated in jail since 1996 to 2009 is unblemished. The same Jail Superintendent had sent proposal in respect of his father for consideration of the State remission Board in 2012 but after deposition by his father in the judicial inquiry, he became vindicate and forfeited earned remission by 665 days in just four months.

5. A.I.G, Prisons was asked as to what is the remedy against arbitrary and unreasonable acts of a Jail Superintendent in forfeiting remissions earned by a prisoner. A.I.G informed that, to his knowledge, there is no such provisions in the revised Bihar Prison Manual, 2012 which is in force w.e.f 12th Dec, 2013. I have also, cursurly, gone through the new Bihar Prison Manual, 2012, available on net, and find that it is wanting in the following respect:-

(a) **Section 396(ii) gives unlimited powers to a Jail Superintendent to forfeit remission earned exceeding fifteen days with no cap on upper limit.**

(b) **There is no provision for review/ appeal against the exercise of arbitrary authority by a Jail Superintendent u/s 396(ii) of the manual.**

6. It is, therefore, strongly felt that the above points should be examined by the Home/Prison, deptt. so that corrective measures could be put in place to check arbitrary/malafide use of these powers by a Jail Superintendent. Action taken in the matter may please be informed to the Commission by **30st June, 2014.**

7. Copy of the order be sent to **(1) Principal Secretary, Home Deptt., Govt. of Bihar (2) I.G, Prisons & Correctional Services, Bihar, Patna** for necessary action.

8. The file be put up before me on or before 07th July, 2014.

Date: 28.3.2014

S.P./DS.

Sd/...
(Neelmani)
Member