

BIHAR HUMAN RIGHTS COMMISSION

9, Bailey Road, Patna

File No. BHRC/Comp.1837/13

(Suo Motu Cognizance)

Subject: Death in fake Police Encounter at Mokama dated 31.5.2013/1.6.2013

Bihar Human Rights Commission (BHRC) took **suo motu** cognizance on 3.6.2013 of the **death of two persons in an alleged police encounter** in the night of 31.5.2013/1.6.2013 at **Mokama (Patna) by-pass** (NH-31) published in the newspapers. Two persons Sh. Raju Singh and Sh. Amar Kumar Raja (both r/o Khagaria) were **killed** in the encounter.

2. According to the FIR lodged by **Police Inspector-cum-SHO Mokama P.S.** Sri Ashok Kumar Singh (Mokama P.S. Case No.114/13), leading the police party, the patrolling party sighted a black Scorpio overtaking a truck in a bid to loot it. According to FIR the police party challenged the criminals and asked them to surrender but they started firing and two of them were killed in retaliatory firing by the police.

3. SSP Patna in his initial report (letter no.2855/CR dated 2.6.2013) copy of which was sent to the Commission, recommended police headquarters for taking over investigation of the case by CID/independent agency. **CID took over investigation** of this case on 13.6.2013 after orders from the DGP Bihar.

4. **BHRC also directed Dr. N.K. Azad, IG BHRC** on 11.7.2013 to make investigation as per provisions of Protection of Human Rights Act, 1993 into the incident. The preliminary report of IG BHRC, submitted to the Commission on 18th September, 2013, was made available to PHQ/CID for response.

5. **IG CID** submitted his report (letter no.2905/मा०को०सी० पटना/अनु-10/13 dated 24.10.2013) to the Commission indicating that the complainant, **Police Inspector Ashok Kr. Singh and ASI**

Rajkumar Chaudhary were arrested and sent to judicial custody on 20th July, 2013. He further informed that the **case was held true** against six non-FIR accused police personnel, namely, (1) Complainant Police Inspector, Ashok Kumar Singh, (2) ASI Rajkumar Chaudhary (3) Havaldar/277 Maheshwari Prasad Singh, (4) Constable/6836 Abhishek Anand, (5) Constable/7069 Ravish Chandra and (6) Constable/6993 Bhushan Kumar **u/s 302/201/120B/34 IPC and 27 of the Arms Act** and also against non-FIR accused Bumbum Mandal and Chandra Shekhar Yadav (co-travellers in the Scorpio) u/s 25(1-B) A/35 Arms Act.

5.2 Commission was also informed that after obtaining **government sanction** for prosecution of all the police personnels from the Law Department on 15.10.2013, **charge sheet no.175/13 was filed against police inspector Ashok Kr. Singh and ASI Rajkumar Chaudhary (under custody) on 15th October, 2013.** It was also informed that after obtaining sanction for prosecution under Arms Act from the District Magistrate, Patna on 1.10.2013, **charge sheet no.171/13 dated 4.10.2013 was filed against Bumbum Mandal and Chandra Shekhar Yadav, co-occupants of the Scorpio.**

6. In its order dated 20th November, 2013, Commission directed Addl. DG, CID to conclude investigation against other accused persons preferably by 31st December, 2013 and also asked for response from the Home Department on award of compensation of Rs.2.50 lakh (rupees two lakh and fifty thousand) each to the victims' family by the BHRC.

7. CID, Headquarters has informed the Commission vide letter no.3256 dated 31.12.2013 that efforts for arrest of remaining four police personnels (one Havaldar and three Constables) continues, **proclamation** obtained from court against them have been **executed** and court is being requested for issue of property attachment for execution. It has been informed that investigations on main points have almost been completed.

8. **The Commission, therefore, directs as under:-**

(a) **Compensation of Rs. 2.50 lakhs (rupees two lakh and fifty thousand) each to the next-of-kin of both the deceased**

in the present episode to be provided by the State Government within six weeks.

(b) Commission is of the view that this is a fit case for speedy trial by the special court set up by Bihar Government vide its notification no.1607 dated 18.3.2011 designating the court of Addl. District & Sessions Judge-I as the Court of Session for each district for speedy trial of offences u/s 30 of the Protection of Human Rights Act, 1993. Commission requests Hon'ble High Court, Patna to issue suitable directions in this regard.

(c) Supplementary/further investigation of the case by C.I.D. should be concluded preferably by 28th February, 2014 covering all aspects of the case including conspiracy, if any.

(d) Needless to reiterate that Police Department must have taken/initiated administrative actions for the criminal conspiracy/omission/commission on the part of concerned police personnel. **DGP, Bihar to intimate action taken in the matter by 28th February, 2014.**

9. Copy of this order be sent to (i) **Registrar General**, Hon'ble High Court Patna (for para 8(b) above), (ii) **Principal Secretary**, Home Department, Government of Bihar (for para 8(a) above), (iii) **DGP Bihar** (for para 8(c) & (d) above) and (iv) **Addl. DG CID, Bihar** (for para 8(c) above) for necessary action indicated above. Copy of the order be also sent to the relatives of the petitioner who were examined in the Commission for their information.

Date: 28.01.2014

Sd/-
(Neelmani)
Acting Chairperson

Secretary
S.P./D.S.