

BIHAR HUMAN RIGHTS COMMISSION

9, Bailey Road, Patna

File No. BHRC/Comp.1444/15

Sub:- **False implication and detention for six months Award of compensation.**

Case of :- **Md. Shamsad Alam & Md. Irshad of Sitamarhi distt.**

Md. Shamsad Alam S/o Md. Naseem Alam. Vill. Kanhawa, PS. Bela, distt. Sitamarhi had complained to the Commission about his & his brothers' false implication, arrest and detention in Runnisaidpur PS (Sitamarhi) Case No. 319/14 dt. 09.08.2014 u/s 363/370/IPC and 23/24 J.J Act, 16 Bonded Labour Act and 06/14 Child Act. The case relates to attempt to take 17 children (06-13 yrs) for child labour in Maharashtra. **The case, after investigation, was found false. The petitioner and his younger brother Md. Irshad had to remain in jail for six months.** Petitioner submitted that he was a teacher in an orphanage Madarsa in Lonovala, Pune district. He was taking all the children, who were his close relatives, for admission in Madarsa.

2. After the initial response received from SP, Sitamarhi & counter response by the petitioner side, notices were issued to the then SDPO, SHO & Investigating Officer(S.I) to explain why proposed compensation to the victims be not recovered from them. Sh. M. N. Upadhya, the then SDPO (now rtd.) (2) S.I., Sh. Sakil Ahmed the then I/c SHO, Runnisaidpur, PS. ,(3) S.I., Krihsan Mohan Yadav, the I.O of the case(4) Md. Shamsad Alam and his brother (5) Md. Irshad **appeared** before the Commission on **07.06.2016**. The officers filed their written submissions also which is on record.

3. According to I.O., parents of all the children confirmed that they were sending their ward for admission in Madarsa along with Md. Shamsad Alam. Verifications at Mumbai & Pune confirmed that Md. Shassad Alam had recently joined the Madarsa. The I.O. did not verify these facts immediately from the village of the rescued children located in Sonebarsha Block in Sitamarhi distt. itself. The I.O., even without orders of his Supervisory Officer (SDPO or SP), filed a **Charge-Sheet** against Md. Shamsad Alam and Md. Irshad, due to which they remained in jail till they were granted bail by the Hon'ble High Court, Patna on 16th February, 2015 (Cr. Misc 46681/2014). The I.O. said that he had taken verbal approval from the SDPO which the SDPO, present during hearing, **strongly denied**. According to the report of SDPO (memo no. 2176 dt. 30.11.2014 as quoted in CD Para "38") I.O. should have submitted Final Form only after compliance of instructions given in the supervision note. This was not done.

4. Md. Shamshad Alam told that the allegations initially levelled by him against S.I. Sakil Ahmed were due to some misinformation while he was in jail.

5. According to the written submissions of I.O. S.I., Krishan Mohan Yadav, he is facing a **departmental proceeding** no. 60/14 for the charges mentioned in para 3 above.

6. **It is, therefore, prima facie established that the petitioner Md. Shamsad Alam and Md. Irshad had to remain in jail for six months due to improper submission of Charge-Sheet on 07.10.2014. The defect was, however,**

rectified by submission of a Final Report, on the orders of SP, in the case on 30th Nov, 2014 and their bail in Feb, 2015.

7. Commission is , therefore, inclined to direct as under:-

(a) A compensation of Rs. 50,000 each be paid to the petitioner Md. Shamsad Alam and his brother Md. Irshad by the Home Deptt., Govt. of Bihar, within two months, for the Human Rights Violations they have suffered.

(b) Subject to the out-come of the departmental proceeding initiated against the investigating Officer S. I, Krishan Mohan Yadav, the amount of compensation or a part thereof, may be recovered from him by the Govt. in the manner deemed fit.

8. Copy of the order be sent to the (i) **Principal Secretary, Home Deptt., Govt. of Bihar, Patna** (ii) **DGP, Bihar** (iii) **SP, Sitamarhi** for necessary action and (iv) **Petitioner, Md. Shamsad (mob.9771953860)** and Md. Irshad, S/o Md. Nasim, vill. Kanhwa PS. Bela, distt. Sitamarhi for information .

Date: 09.06.2016

Sd/...

(Neelmani)

Member

Asstt. Registrar.