

नीलमणि,  
**Neelmani,**  
सदस्य  
**Member**



**बिहार मानवाधिकार आयोग**  
**Bihar Human Rights Commission**  
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**Letter No. 17 dated 22.5.2015**

To,  
**Sh P.K Thakur**  
Director General of Police,  
Bihar, Patna

Sub: - **Handcuffing of under trial prisoners.**

Dear Sir,

**Inputs gathered during sensitization workshops with the police personnel in the districts indicate that the field formations are not adequately sensitized about the Hon'ble Supreme Court orders/ guidelines on handcuffing of under trial prisoners and this, at times, results in human rights violations.**

2. Hon'ble Supreme Court directives on handcuffing requires that:-

**Handcuffs are to be used only if a person is:**

- (a) involved in serious non-bailable offences, has been previously convicted of a crime; and/or**
- (b) is of desperate character – violent, disorderly or obstructive; and/or**
- (c) is likely to commit suicide; and/or**
- (d) is likely to attempt escape.**

2.2 The reasons why handcuffs have been used must be clearly mentioned in the Station Diary and they must also be shown to the court. Once an arrested person is produced before the court, the escorting officer must take the court's permission before handcuffing her/him to and fro from the court to the place of custody. The magistrate before whom an arrested person is produced must inquire whether handcuffs or fetters have been used. If the answer is yes, the officer concerned must give an explanation.

2.3 Following cases can be referred to in this regard:-

(i) Citizens for Democracy vs. State of Assam and Ors. [ (1995)3SCC743]

(ii) Sunil Batra Vs. Delhi Administration [AIR 1978 SC 1675]

(iii) Prem Shankar Shukla v. Delhi Administration [AIR 1980 SC 1535]

(iv) Sunil Gupta v. State of M.P. [1990 SCC (Cr.) – 440]

3. Section 76 of Juvenile Justice (Care & Protection of Children) Rules, 2007 prohibits use of handcuffs and fetters to juveniles. PM Rules 241 & 242 dealing with the use of handcuffs also stipulates that females, witnesses arrested under section 171, Cr.P.C. and those who either by age or infirmity are easily and securely kept in custody shall not be handcuffed nor shall unnecessary restraint be used.

4. It is, therefore, suggested that the Police Head quarters may consider issuing a comprehensive guideline to the field formations for clarity on the issue. Needless to say that it should form part of induction/in-service training courses/modules designed for various ranks in the police organization and repeatedly stressed during ongoing sensitization programmes.

Yours faithfully

Sd/...

**(NEELMANI)**

Copy to: **Principal Secretary, Home Deptt. , Govt. of Bihar for information.**