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ODISHA HUMAN RIGHTS COMMISSION

BHUBANESWAR





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## CHAPTER - 1

# INTRODUCTION

The Odisha Human Rights Commission (OHRC) constituted under Sub- Section (1)(2) & (4) of Section 21 of the Protection of Human Rights Act, 1993 in its eleventh year of existence sustained its sincere efforts for proper implementation and enforcement of the Protection of Human Rights Act, 1993 in the State. With Commission's intervention, proactive steps have been taken by Government in various areas. The Commission in its landmark orders have again reiterated the fact that enforcement of law with impropriety and negligence in safe guarding the human rights in some cases does not justify its highhandedness. A clean and clear system has to accept the majesty of law, it should ensure equality of treatment and must not allow the Government machinery to be an instrument of harassment. Commission by its timely intervention has again given guidance to the Government and has proved that a human administration only can defend and promote human rights and human dignity.

The Commission has focussed particular attention on protecting those members of our society who are most vulnerable and unable to protect themselves. They include children, women in distress people in custody, patients under treatment, the elderly and infirm and the physically, mentally or socially disadvantaged.

The Commission's intervention has resulted in noticeable improvement in many illustrative areas where protection of human rights and fundamental freedoms of individuals or group are to be addressed. Human Rights Commission is meant to facilitate governance. It is there for the help of the administration and the people to achieve their social, economic and cultural rights. People are gradually coming to realize that violation of

human rights is a matter which can be enquired into by the Human Rights Commission.

In OHRC Case No.2709 of 2013 which was received from NHRC on transfer with the intervention of this Commission, the media person were allowed by the Superintendent of SCB Medical College and Hospital, Cuttack for media coverage. The district administration of Ganjam took adequate steps for rehabilitation of the families who were victims of sea erosion. Birsingh Munda a minor boy of Jajpur District who came in contact with a live wire of the 11 KV LT line was admitted to the SCB Medical College and Hospital after the Commission's intervention. All treatment costs were borne by the State and the boy after recovery discharged from the Hospital. The details of illustrative orders passed by the Commission are given in Chapter-IV.

2. Dr. R. N Bohidar continued as the Acting Chairperson from 24-11-2012 and continued as such till 17-11-2013, when he demitted the office of the Acting Chairperson on attaining the age of 65 years. Justice Sri B.K Misra assumed the office of Hon'ble Member (Judicial) on 16-08-2013 and on demitting the office of Acting Chairperson by Dr. R.N Bohidar assumed the charge of Acting Chairperson, OHRC w.e.f 18-11-2013. Sri Santosh Kumar Upadhaya, IPS continued as the ADG-cum- Director Investigation and Sri R.K Choudhury, IAS functioned as the Secretary of the Commission.
3. During the year 2013-14 the State Commission continued its efforts to sensitize the people about the provisions of the Protection of Human Rights Act, 1993 and other regulations by



- conducting awareness camps through NGOs and Collectors of different Districts.
4. Commission observed the World Human Rights Day on the 10<sup>th</sup> of December, 2013. Hon'ble Sri Justice A.K Goel, Chief Justice of Orissa High Court was the Chief Guest. A function and Seminar on "Constitutional Safeguards in Protection and Promotion of Human Rights" was organized on the occasion in the Conference Hall of OHRC and the eminent speakers invited on the occasion presented their views on the topic. The Annual Magazine of OHRC 'The People's Beacon and a Brochure', 'FAQ' in Odia were also released on the occasion by the Hon'ble Chief Justice of Orissa High Court, Sri Justice Adarsh Kumar Goel.
  5. In comparison to the previous years , there was a significant increase in the registration of Cases concerning violation of human rights. Against the registration of 3873 nos. of cases in 2012-2013, 4176 nos. of Cases were registered during the period under report.
  6. As mandated u/s 18 (a) of the Protection of Human Rights Act, 1993, the Commission awarded compensation/relief in favour of the complainant/Victims or Members of his family during 2013-14 to be paid by the State Government/ authorities, the details of which are indicated at chapter-5





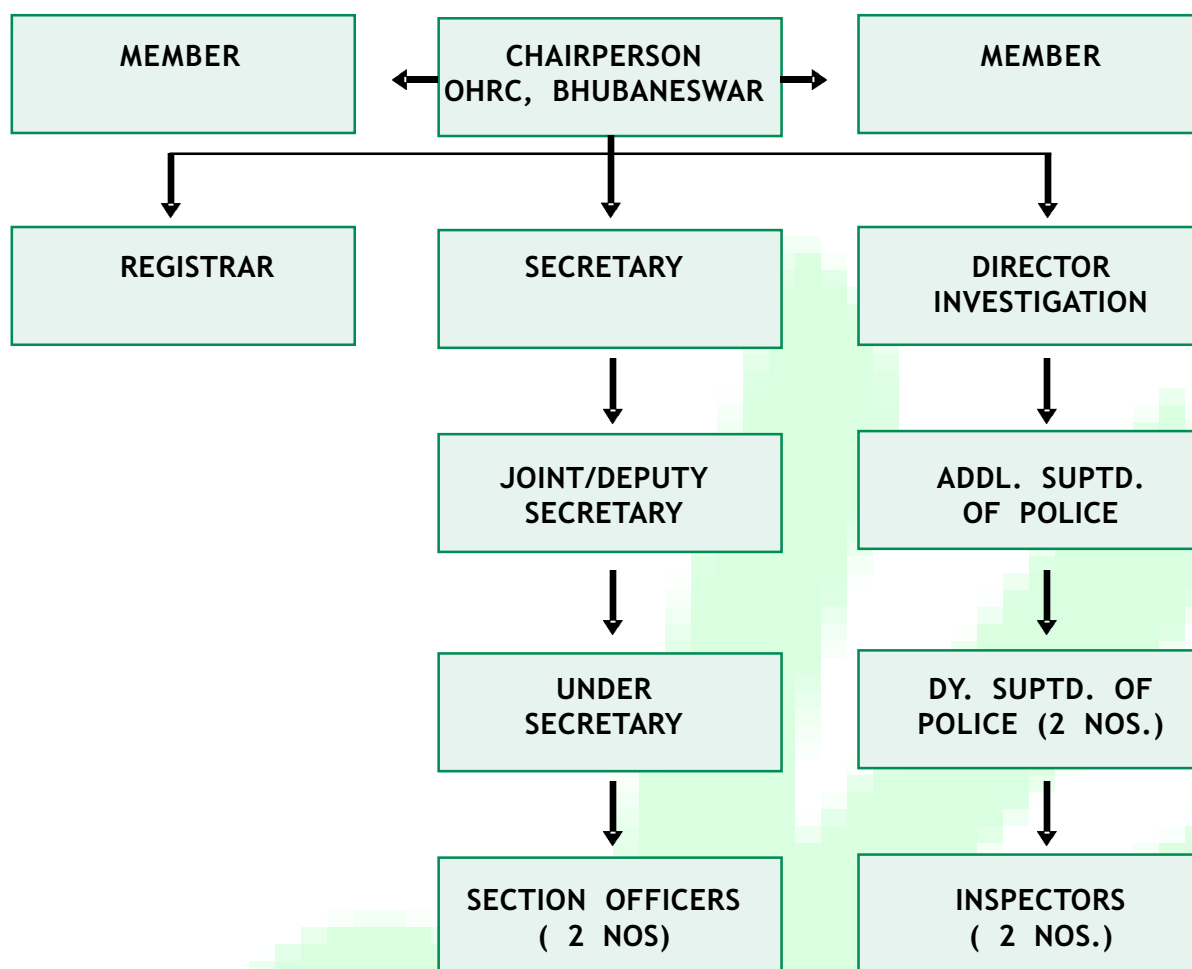
## CHAPTER - 2

# COMPOSITION OF THE COMMISSION 2013-14

		<u>Date of joining</u>	<u>Date of retirement</u>
DR. R.N. Bohidar	Acting Chairperson	24.11.2012	17.11.2013
Justice Sri B.K. Misra	Judicial Member	16.08.2013	Continuing
Justice Sri B.K. Misra	Acting Chairperson	18.11.2013	Continuing

The Staffing pattern of the State Human Rights Commission during the Period under Report is furnished in the Annexure-I.

### ORGANOGRAM



III

**CHAPTER - 3****REGISTRATION AND DISPOSAL OF CASES**

Since its inception, the Commission has been receiving complaints alleging violation of human rights from all Districts on a variety of subjects. Besides, Newspaper Reports published in leading Newspapers are being scrutinized on regular basis and the Commission suo motu has been taking cognizance of Reports which prima facie disclose violation of human rights or negligence in the prevention of such violation by the Public servant.

During the period from 1<sup>st</sup> April 2013 till 31<sup>st</sup> March 2014, the Commission received 4176 number of Complaint Petitions out of which 1542 complaints were dismissed in limine and the balance 2634 Cases were entertained for enquiry by the Commission, which included 85 numbers of cases entertained Suo Motu for enquiry. During the period under Report, 1727 number of Cases were disposed of after enquiry besides 1542 Cases having been dismissed in limine.

The Statement indicating subject-wise classification of Cases filed during 2013-14 is furnished in Annexure II. Suo Motu Cases filed during the period under Report is furnished vide Annexure III. Classification of Cases entertained during 2013-14 is furnished in Annexure-IV.

Complaint in which Commission has taken cognizance related to variety of grievances including allegations of custodial death both in police stations and in jails, custodial torture, starvation death, arbitrary use of power and failure in taking lawful action by police, child labour, cruelty to children, trafficking in human beings, environmental pollution, indignity to women, discrimination against physically handicapped, discrimination against Scheduled Caste and Scheduled Tribe persons and denial/ delay in grant of livelihood support to deserving persons/ delay in sanction of pensionary and other benefits to retired persons, negligence of Doctors in the treatment of Patients etc.





## CHAPTER - 4

# ORDERS PASSED BY THE COMMISSION IN ILLUSTRATIVE CASES

### OHRC CASE NO.2332 OF 2013:

Date:23-12-2013

In this case the petitioner Shri Ranjan Kumar Das of village Srijung under Khantapada PS of Balasore district in his petition received by the Commission on 27-05-2013 had alleged that though he had deposited one thousand rupees on 24-08-2010 in the office of the Srijung Gram Panchayat office for getting water connection to his house but some unscrupulous persons being envious, disconnected the same pipe connection given to his house. The B.D.O., Remuna was asked to submit a factual report on the matter.

After persuing the report of B.D.O., Remuna, the Commission felt that water connection had been given to the house of the petitioner from the RWSS Project but not from the SJRY Water Project to which the petitioner admitted that there was water connection to his house but at times he was being deprived of getting safe drinking water. The Collector, Balasore was requested to see that water connection is given to village of Srijung by making the SJRY Project functional as by such supply of water, The villagers would be greatly benefited in getting safe drinking water and can live with human dignity, as a right to live with human dignity is a constitutional mandate as envisaged under Article 21 of the Constitution of India.

### **Case No-1201/2013**

Damodar Barik in his complaint received by the Commission on 15<sup>th</sup> April,2013 alleges that his daughter Mitanjali Barik (14) a student of Class-X is missing since 26-11-2012, for which he has filed a complaint vide Baramba PS MMR NO.583 dated 31-11-2012.

A copy of the petition be sent to the Superintendent of Police, Cuttack with a request to get the matter enquired into and submit a factual report to the Commission in three weeks time.

In compliance to the order of the Commission dated 22-04-2013, report has been received from the Superintendent of Police, Cuttack vide his letter No. 2778 dated 28-08-2013.

A copy of the report as above be sent to the petitioner for his information and response, if any, in four weeks time. It shall be stated in the notice that if no response is received within the stipulated time, it shall be presumed that he neither disputes the content of the report nor has anything more to add to it.

Put up the case on 12-11-2012 awaiting response, if any, from the petitioner.

Response of the petitioner received. The petitioner had complained that his minor daughter, aged 14 years was missing from his house since 06-11-2012 and after thorough search in the relations, FIR was lodged at Baramba Police Station on 30-11-2012, but no action was taken on his report and accordingly, the petitioner has approached this Commission for immediate intervention in the matter.

A report from the Superintendent of Police, Cuttack was called for, which reveals that on the report of the petitioner SDE No-583 dated 30-11-2012 and Missing Report No.20 of 2012 was made and enquiry was taken up. During enquiry, it is revealed that the victim was in love with Manoj Rout of her village and on 26-11-2012 both eloped and it is learnt that they are staying at Sutrat



enjoying their conjugal life. It is also reported by the Superintendent of Police, Cuttack that the victim as well as the boy are contracting their family members as well as the gentlemen of their village from time to time and both sides are interested to accept the relationship between the victim and Manoj Rout.

The petitioner in his response to the report of the Superintendent of Police, Cuttack, express his displeasure and questions the inaction on the part of Baramba Police as to why the victim girl and the boy have not yet been recovered and since the victim is a minor, her consent is not consent and accordingly, the petitioner has sought the intervention of the Commission.

After perusing the response of the petitioner, we feel it appropriate to sent a copy of this response to the Superintendent of Police, Cuttack for appropriate direction to Baramba Police to proceed in accordance with law, especially when admittedly the victim girl is a minor and she is allegedly 14 years old when the alleged occurrence took place. Police cannot sit tight in the matter on the ground that the victim and the boy were in love and they are enjoying their conjugal life in Surat and close the case.

We should like to emphasize here the provision of law with regard to registration of FIR when the allegations reveal commission of cognizable offence. Registration of FIR is mandatory under Section 154 of the Code of Criminal Procedure, 1973, if the information discloses commission of a cognizable offence and no preliminary enquiry is permissible. In such a situation, a police officer cannot avoid his duty of registering the offence, if cognizable offence is disclosed and action must be taken against the erring officers, who do not register the FIR, if the information received purely discloses cognizable offence. A copy of the FIR shall be given forthwith to the informant free of cost. (Latika Kumari-Vrs.-Govt. of U.P. & others reported in a case disposed of in W.P.(Crl.) NO.68 of 2008

disposed of by the Constitution Bench headed by Hon'ble Chief Justice of India and 5 others Honb'le Judges on 12-11-2012. (2014 OCR. Vol.I Page.1). The conclusion/directions issued by the Constitution Bench of the Apex Court runs as follows:

- “ (i) Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.
- (ii) if the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offences is disclosed or not.
- (iii) if the inquiry disclosed the commission of a cognizable offences, the FIR must be registered . In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.
- (iv) The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.
- (v) The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.
- (vi) As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:



- (a) Matrimonial disputes/family disputes.
- (b) Commercial offences
- (c) Medical negligence cases
- (d) Corruption Cases
- (e) Cases where there is abnormal delay/latches in initiating criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay.

The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

- (vii) While ensuing and protecting the rights of the accused and the complainant, a preliminary enquiry should be made time bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.
- (vii) Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above.”

The afore-stated conclusions/directions issued by the Constitutions Bench of the Apex Court be communicated to the Principal Secretary to the Government in Home Department as well as to the Director General of Police, Odisha for strict compliance and guidance of law enforcing agencies and the Police Officers manning different Police Station and Out Posts in its letter and spirit.

We observe that even in cases, where no action is taken by police on information given to them, the informant of the aggrieved party is not remediless and he may resort to

the provision of Section 190 and 200 of the Cr. P.C Let a copy of this order be sent to the Superintendent of Police, Cuttack for his information and strict compliance.

With the aforesaid observations the case stands disposed of.

**Case No.3206/2012**

**Basanti Satpathy ..... Petitioner**  
**O R D E R**

**Dated: 12<sup>th</sup> July, 2013**

Petitioner Basanti Satpathy of Patia, Bhubaneswar in her complaint dated 18-10-2012 gave a detailed note of harassment received from her daughter-in-law Lipipuspa Rozalina and her father Gagan Chandra Panigrahi and how her family has been unduly taken to task by the Bhubaneswar Mahila PS on complaint filed by her daughter-in-law.

The Commission vide its order dated 14-1-2013 noted that the Apex Court as well as the Ministry of Home Affairs have already expressed their concern of misuse of section 498(A) IPC and accordingly the Ministry of Home Affairs circulated a guideline vide their letter No.3/5/2008-Judl.Cell dated 20-10-2009.

The Deputy Commissioner of Police, Bhubaneswar was requested to get the matter enquired into by a senior officer and submit a detailed factual report to the Commission addressing all the allegations and his comment as to whether the guidelines of the Ministry of Home Affairs have been followed properly.

Pursuant to the said order of the Commission, the Deputy Commissioner of Police, Bhubaneswar vide his letter No.1457/DHRPC dated 6-5-2013 has submitted a report of Addl. DCP, Bhubaneswar who enquired into the matter. It is stated in the report that on complaint of Lipipuspa Rozalina on 11-5-2012 at Mahila PS with an allegation that her in-laws have subjected her to torture and demand of additional dowry of Rs.3 lakh and have assaulted her with criminal intimidation, Mahila PS case No.215 dated 11-5-2012 was registered u/s 498(A)/294/323/506/34 IPC/4 DP Act.



During investigation, the IO examined the family members of the complainant and witnesses and arrested the petitioner Basanti Satpathy, her husband Gupta Prasad Satpathy and son Kajol Satpathy and forwarded them to Court on the next day. After completion of investigation and compliance of instruction of supervising officer, as the case was established prima facie, the IO submitted charge-sheet No.316 dated 17-11-2012 against all the accused persons.

Despite being specifically so requested, the report did not smell a word as to whether the guidelines of the Ministry of Home Affairs quoted above were followed by the police in this case. The date of complaint and the date of arrest being the same, apparently the guidelines were not followed.

The Commission, therefore, considered it a fit case to be enquired into by its own Investigation Wing. The Director, Investigation, OHRC was requested vide order of the Commission dated 7-5-2013 to get the matter enquired into through one of the officers of this Commission and submit a report. It was specifically noted that since Bhubaneswar Mahila PS case No.215/2012 has already been charge-sheeted on 17-11-2012 and presently subjudice, the merits of the case of dowry torture should not be looked into and the Enquiring Officer of the Commission should limit his enquiry to whether the Mahila police on receipt of complaint from Lipipuspa Rozalina has followed the guidelines of the Ministry of Home Affairs dated 20-10-2009 and has taken due steps.

In compliance, the Director, Investigation, OHRC vide his letter No.9650 dated 25-6-2013 submitted a report of DySP P.K. Tripathy, who enquired into the matter. DySP Tripathy was examined by the Commission under section 14(5) of the Protection of Human Rights Act, 1993.

From his report and upon his examination, the Commission noted that the accused persons have been arrested on the

day of the complaint without having been given any opportunity for counselling and the NHRC guidelines as well as the guidelines of the Ministry of Home Affairs dated 20-10-2009 have not been followed in this case. SI K. Behera of Bhubaneswar Mahila PS, who is the IO in this case in her statement, stated that she took the action by examining the complainant and her relatives. She had not examined any witnesses from the other side. She simply says that the complainant and the other side did not agree for counselling which is not borne out by any specific evidence. She has not given any satisfactory reason in her statement as to why the accused mother-in-law was arrested at 8:30 pm, though section 46(4) of CrPC, 1973 is very specific that, **save in exceptional circumstances, no woman shall be arrested after sunset and before sunrise, and where such exceptional circumstances exist, the woman police officer shall, by making a written report, obtain the prior permission of the Judicial Magistrate of the First Class within whose local jurisdiction the offence is committed.**

In view of arrest made in violation of NHRC guidelines, guidelines of Ministry of Home Affairs and section 46(4) of CrPC, the Commission holds that the human rights of the victims have been violated. The Commission, therefore, awards a compensation of Rs.50,000/- (rupees fifty thousand) in favour of the petitioner Basanti Satpathy, her husband Gupta Prasad Satpathy and son Kajal Satpathy under section 18(a) of the Protection of Human Rights Act, 1993.

A copy of this order be sent to the Principal Secretary to Government, Home Department with a request to arrange payment of the above compensation amount in favour of the victims as above and report compliance to the Commission in four weeks' time.

Since the Commission has been observing repeatedly action being taken by the local police in violation of NHRC guidelines and guidelines of Ministry of Home Affairs dated 20-10-2009, the Principal Secretary to



Government, Home Department be also requested to circulate a fresh copy of these guidelines to all the police stations of the State with strict instruction to abide by the same.

Put up the case on 6-9-2013 awaiting compliance report from the Principal Secretary to Government, Home Department.

Dr. R.N. BOHIDAR  
ACTING CHAIRPERSON

Dated: 12<sup>th</sup> July, 2013

### Compliance by the public Authority

Date : 12-11-2013

The Special D.G of Police, Headquarters, Odisha in his memo. 5279 dated 21-09-2013 informs this Commission about payment of compensation of Rs.50,000/- to the petitioner Basanti Satpathy, her husband Gupta Prasad Satpathy and son Kajal Satpathy of Patia, Bhubaneswar as per the recommendation of this Commission. The DCP, Headquarters, Bhubaneswar has furnished the receipt grants by Smt. Basanti Satpathy, her husband Gupta Prasad Satpathy and son Kajal Satpathy acknowledging disbursement of Rs. 50,000/- to them on 12-09-2013.

Since the order of the Commission has been complied with in full, the case stands closed.

**Case No-2887/2011      Date: 10-05-2013**

Taking cognizance of the news item under caption “ NISHASAKTA POLICE MADA RE THIKADARNKA MRITYU” published in the daily ‘KHABAR’ on 25-12-2011, the Commission enquired into the matter. Based on the report of Superintendent of Police, Berhampur dated 02-01-2012, the Commission found it to be a gross violation on the part of police personnel in handling the situation resulting in death of Birakishore Swain, for which the State Government is liable to pay compensation u/s 18 (a) (i) of the Protection of Human Rights Act, 1993 and SP, Berhampur was called upon to furnish details of the deceased as to his

age, occupation, dependants and sources of livelihood support for them to finalize the quantum of compensation.

Pending receipt of the above information, the Commission had recommended payment of interim relief of Rs.2 lakh to the NOK of the deceased Bira kishore Swain u/s 18 (c) of the said Act vide its order dated 25-01-2012.

In compliance to the above order of the Commission, the Superintendent of Police, Berhampur vide his letter no.416/HRPC dated 20-04-2013 submitted a report stating that the deceased Bira kishore Swain was born on 11-05-1972. He is survived by his wife Babita Swain and a daughter Arpita Swain (14) continuing her study in Class-X and two sons Anup Swain (21) working as Home guard since one year and second Abinash Swain (17), who had appeared in the HSC examination in the year 2013. The deceased Birakishore Swain has no agricultural land and any other sources of livelihood support and the family members are now maintaining their livelihood on the earnings of elder son Anup Swain working as a Home Guard.

From the above facts and the manner in which the deceased got killed, the Commission considers it to be a fit case for an award of Rs.3 lakh u/s 18 (a) (i) of the Protection of Human Rights Act, 1993.

Taking into account relief amount of Rs.2 lakh already paid, the Principal Secretary to Government, Home Department be requested to arrange payment of balance Rs.1,00,000/-(one lakh) in favour of the dependant of the deceased Birakishore Swain and report compliance to the Commission in four weeks’ time.

### Compliance by the Public Authorities

Date:29-08-2013

Perusal of the record further reveals that the Commission recommended payment of compensation to the tune of three lakhs of rupees under section 18 (a)(i) of the Protection



of Human Rights Act, 1993. Since interim relief of rupees two lakh has already been paid to the NOK of the deceased Bira Kishore Swain, the Commission directed the Government to pay balance amount of one lakh of rupees to the dependants of the deceased.

The Government in Home Department has already sanctioned Rs.1,00,000/- for payment to the dependants of the deceased and steps have been taken for such disbursement by the DG & IG of Police, Orissa, and to obtain receipt in token of that.

Remind the Government in the Home Department as well as the DG & IG of Police, Odisha, Cuttack to submit the report of compliance within three weeks hence.

Since filing of the money receipt is a mere formality and does not require interference of this Commission, further proceeding stands closed.

**Case No-452/2013**      **Date: 15-04-2013**

News items under caption "3 MAHILANKA SAMETA 4 JANANKU ULAGNA KARI BULAILE LOKE" published in the daily 'DHARITRI', under caption "MAHILANKU BIBASTRA KALE, RASTA RE BULAILE" published in the daily 'SAMAJ' and under caption "3 MAHILANKU ULAGNA BULAILE" published in the daily 'SAMBAD' on 12-2-2013 came to the notice of the Commission. As per these news reports, three women and one man of village Malpada of Kiralaga GP of Sabdega Block of Sundargarh district become victims of suspicion of witchcraft. One Prafulla Barla of the said village, whom people listen, identified the above women and man to be practising witchcraft responsible for death of people in various accidents. At this, the villagers got enraged, made the four persons named and took them in a procession.

In view of the torture and loss of dignity inflicted on the victims based on blind belief, the Commission vide its order dated 12-2-2013 took cognizance of the matter suo-motu

and called upon the Superintendent of Police, Sundargarh to get the matter enquired into and submit a factual report to the Commission.

In compliance, the Superintendent of Police, Sundargarh vide his letter No.208/HRPC dated 4-3-2013 has submitted a report of Addl. SP, Sundargarh who enquired into the matter. It is stated in the report that one Prafulla Barla of village Ampada under the Talsara PS limits of Sundargarh district used to act as a witch doctor in the village and claimed existence of some evil spirit due to practising of witchcraft by some of the villagers of the locality which has been responsible for death and mishappenings in the village. He convened a meeting of the villagers on 11-2-2013 and in the meeting he alleged that co-villager Patras Dungdung (60), his wife Christina Dungdung (55), and their women relatives Philmina Dungdung (50) and Balmodiza Soreng (45) practice black magic. Upon such declaration, Prafulla Barla and his associates Sanjay Soreng and Anil Baa started assaulting the aforesaid victims, forcibly disrobed them including the three ladies with help of other villagers and moved them nude in a procession to all the nearby hamlets of the village. They threatened the victims against dire consequences in case of disclosure of this fact. On getting information, the IIC, Talsara PS rushed to the village Ampada and contacted the victim, who were in a panic stricken position, brought them to the PS and registered a case on their oral report vide Talsara PS case No.17 dated 11-2-2013 u/s 341/323/294/506/354/355/34 IPC. He arrested the accused persons Prafulla Barla, Sanjay Soreng and Anil Baa immediately and forwarded them to Court on 13-2-2013.

On supervision, the case was found to be a true one against the aforesaid persons along with others. Police patrolling in the area has been intensified and preventive proceeding u/s 107 CrPC has been submitted against the alleged persons for maintenance of peace in the locality.



The Commission appreciates the prompt action on the part of the police and expects that investigation of Talsara PS case No.17/2013 shall be concluded to its logical conclusion.

Since the harassment and the loss of dignity of the victim man and the three women is found true and the same was owing to superstition and blind belief, the society as a whole owes it to them. The Commission awarded relief @ Rs.40,000/- to each of the four victims u/s 18 of the Protection of Human Rights Act, 1993.

A copy of this order was sent to the Principal Secretary to Government, Home Department with a request to arrange payment of the aforesaid relief amount in favour of the victims as above and report compliance to the Commission in four weeks' time.

#### Compliance by the Public Authorities

Date:23-09-2013

In compliance to the order of the Commission dated 25-7-2013, the Home Department vide its letter No.32762 dated 3-9-2013 has reported that the compensation amount @ Rs.40,000/- each to the four victims has been disbursed and has submitted a copy of the stamped money receipt as proof thereof.

Since the compensation has already been disbursed to the victims, the Commission does not consider it necessary to continue further with the enquiry. The case is, therefore, closed.

#### **CASE No.333/2008**

**Golak Chandra Nayak ..... Petitioner**

**Date : 14-12-2012**

#### **O R D E R**

The grievance of the petitioner Golak Chandra Nayak of Jarada under the Jarpada PS of Angul district in his petition dated 12-3-2008 was that his son Jaga Nayak, who was working in Sumanta Hotel of Sambalpur, was killed by Sumanta Mahakud, the owner of the hotel. Although he reported the matter at Ainthapali PS, the police did not entertain the FIR.

It is an admitted fact that Jaga was working in Sumanta Hotel situated near Fatak, Sambalpur. He was last found working on 15-7-2007 in the hotel.

On 15-7-2007 morning Sumanta Mahakud the hotel owner found his mobile missing. He suspected that Jaga might have hand in stealing of the mobile. Jaga was called to the hotel and was allegedly beaten suspecting him to have stolen the missing mobile. Since, thereafter, he was not seen, the police merely registered a case as Ainthapalli PS case No.107 dated 21-7-2007.

An unidentified dead body was traced on the side of the railway line for which GRPS Sambalpur UD case No.23/2007 was registered and photograph of the dead body and wearing apparels were shown to his parents.

The enquiry report submitted by the SP, Sambalpur was found to be unsatisfactory as there was some loose endings. Therefore, the Commission got the matter enquired into by S.N. Pradhan, Inspector attached to its Investigation Wing. After examining the records and witnesses, he submitted his report indicating that the dead body which was disinterred was that of Jaga as per the following portion of his report:

\* \* \* \* \*

- “1. The petitioner and his family members stated before me that his son Jaga was wearing a cement jeans pant with chain stitching at the lower part. The EO of GRPS UD case No.23/2007 mentioned the same thing in the inquest report.
2. Jaga Nayak (18), son of the petitioner was found missing since 15-7-2007 and he is still untraced. The dead body of one unidentified male person was disinterred on 1-8-2007 by the side of railway line (in between Fatak and Khetarajpur railway line) about half kilometre from the place of incidence, i.e. Sumanta Hotel in a suspicious manner after 16 days of the occurrence of missing of Jaga Nayak on 15-7-2007.



3. The MO conducting the post-mortem examination, opined that the death of the deceased is within 7 to 14 days which co-relates the occurrence of suspicious missing of Jaga on 15-7-2007.
4. As the PM conducting MO has not given his findings about the approximate age of deceased in PM report, I made query to HOD, Department of FMT, SCB Medical College, Cuttack, who after analysing the PM report gave opinion that the age of deceased could be above 18/19 years.
5. The petitioner after verifying the photograph of the deceased in GRPS UD case No.23/2007 (photograph being produced by me during enquiry) stated that there is some resemblance of some portion of the dead body with his son Jaga and also similarity of wearing apparel. Hence the petitioner believes the photographed dead body to be of his son Jaga and added that photograph has not been produced before him at GRPS for his identification.”

\* \* \* \* \*

He also pointed out the following lacunae in investigation of Ainthapali PS case No.107/2007 and Sambalpur GRPS UD case No.23/2007:

1. The IO SI S.K. Pujari in Ainthapali PS case No.107/2007 though aware of recovery of unidentified dead body of male person on 1-8-2007 in a suspicious manner by the side of railway line, about half kilometre from the Hotel Sumanta after the occurrence i.e. missing of Jaga Nayak on 15-7-2007, but had not taken any steps so far by not conducting polygraph test/Norco analysis test to verify the genuineness of the statement of the accused, when the petitioner suspected killing of his son Jaga by Sumanta Mahakud and demands the dead body to be of his son.
2. The IOs in Ainthapali PS case No.107/2007 have not taken steps to obtain the

final opinion from the MO conducting post-mortem examination as to the cause of death of the deceased and age of deceased though collected the copies of CDs and other papers in Sambalpur GRPS UD case No.23-2007 for investigation in Ainthapali PS case No.107/2007 after allegation.

3. It is a major lacunae on the part of the ASI S. Biswal, the EO in Sambalpur GRPS case No.23/2007, who has not seized the wearing apparel of the unidentified deceased after PM examination which was one of the most vital clue for comparison and identification to get any further clue/evidence in such case where the decomposed dead body of one unidentified person was disinterred in a suspicious manner. Further, he has not given requisition to the MO conducting PM to preserve the skull of the unidentified dead body for super imposition test for identification of the deceased in later stage in this suspicious UD case.
4. It is also astonishing that the EO ASI S. Biswal, without obtaining the final opinion as to the cause of death from the MO conducting PM by producing the viscera analysis report, closed the UD case declaring the death of the deceased was due to natural disease process. He has not also obtained the opinion about the age of the deceased from the MO before closing the UD case.

Accordingly, vide order of the Commission dated 16-7-2010, Ainthapali PS case No.107/2007 is under investigation by the CID/CB, who are submitting reports from time to time.

In the meanwhile, a petition was submitted by one Mayadhar Tandi and Dhananjaya Suna received by the Commission on 3-11-2012, where it was claimed that on the fateful day i.e 15-7-2007 when they were returning home at about 6:30 pm they heard



somebody screaming 'MARIGALI, RAKHYA KARA, DHAIN AASA' from inside the Modern Lodge & Hotel and when they went near, they found the staff including hotel owner Sumanta Mahakud, his Advocate friend and others beating up a person.

A copy of the petition was sent to the Superintendent of Police, CID/CB with a request to instruct the IO to examine these witnesses. They have been examined by the CID/CB and reported to have said the same thing during their examination. It is, however, reported that they are involved in several crimes and have a grudge against the Advocate. It is also reported that in the meanwhile the Professor, FMT, SCB Medical College & Hospital, Cuttack, who was requested for clarification regarding the cause of death and age of the deceased, has stated that the age should be above 18 years and about the cause of death, it is stated that in absence of any ante-mortem injury or deformity with the CE report revealing no trace of any poison, alcohol etc. the cause of death of the deceased due to complications of some natural disease process.

Presence or absence of ante-mortem injury on a decomposed dead body after 15 days of death is a question to be addressed. Even if medical opinion on the cause of death is said to be out of a natural disease process, the circumstance of the body having been surreptitiously buried in an unconventional place does not indicate that it was a natural death.

From all the materials as above, the Commission is inclined to hold that the dead body in Sambalpur GRPS UD case No.23/2007 is that of Jaga Nayak, who has been missing since 15-7-2007 and there is foul play in his death. While the CID/CB will probe further to nail down the real culprit of the crime, the Commission is of the opinion that the petitioner has lost a 19 year old son, who was killed and buried surreptitiously. There was inaction, negligence and lacunae in the investigation of the local police. The Commission, therefore, awards a compensation of Rs.2,50,000/- (rupees two lakhs & fifty

thousand) in favour of the NOK of the deceased Jaga Nayak under section 18(a) of the Protection of Human Rights Act, 1993.

A copy of this order be sent to the Principal Secretary to Government, Home Department with a request to draw the above amount and disburse the same to the NOK of the deceased Jaga Nayak and report compliance to the Commission in four weeks' time.

The Superintendent of Police, CID/CB be requested to submit further progress report in the investigation of Ainthapali PS case No.107/2007 in four weeks' time.

Dr. R.N. BOHIDAR  
MEMBER

**Dated : 14<sup>th</sup> December, 2012**

#### Compliance by the Public Authorities:

Date : 11-7-2013

Pursuant to the order of the Commission dated 14-12-2012, the Home Department sanctioned Rs.2.5 lakh towards payment of compensation to the NOK of the deceased Jaga Naik. The Spl. DG of Police (Hdqrs), Odisha vide his memo No.2032 dated 27-4-2013 confirmed disbursement of the compensation amount.

Today the petitioner appeared before the Commission acknowledging receipt of the compensation amount with a note of gratitude that with that money he got his daughter married and the balance has been kept as bank deposit. He, however, submitted a petition praying for action against the culprits and providing protection as the culprits have become vindictive because of the case.

With a note of advice to the Superintendent of Police, CID/CB, Odisha to ensure expeditious investigation of Ainthapali PS case No.107/2007 to its logical conclusion, the Commission hereby closes this case.

Since the petitioner has expressed his apprehension of revengeful attack from the culprits, a copy of his submission be sent to



the Superintendent of Police, Angul with a request to keep a watch and provide them protection as and when it is felt necessary.

A copy of the order of the Commission dated 14-12-2012 be also sent to the SP, Angul for his background information.

#### Case No-1509/2012 ( Suo- Motu)

Date: 07-06-2012

This is a suo motu proceeding which was initiated on the basis of a news item published in the daily 'SAMAJ' in its edition dated 16-05-2012 under the caption " JUBAKANKU TEKINEI POLICE RA NISTUKA MADA".

On being noticed, the Superintendent of Police, Puri vide 1830/DHRPC dated 06-06-2012 has submitted the factual report. He has also enclosed a copy of the enquiry report of the Addl. Superintendent of Police, Puri.

The enquiry report reveals that on 13/14 of May, 2012 night Balaram Maharana of Mangalaghat was returning home in Yamaha (Libero) motorcycle bearing registration no-OR-07H-8653 along with his friends Susanta Mallik and Kahna Mohapatra from Mangalaghat after witnessing an opera show at Koilaoda crossing. On their way, Balaram Maharana stopped his motorcycle near Mangalaghat bridge crossing where his accompanying friends went for urination to a nearby place. When Balaram Maharana was waiting for return of his friends, Sub- Inspector of Police of Sadar Police Station, Puri Srikanta Kumar Tripathy, ASI Dillip Kumar Panda and Home Guard P.K Panda reached there in police jeep. The time was about 3.30 am. When the Sub- Inspector Tripathy questioned Balaram Maharana about his presence at the spot in the odd hours of night, the latter told him that he was returning after witnessing the opera show. Balaram Maharana showed an opera ticket. The Sub-Inspector, Tripathy tore and threw the ticket. He assaulted Balaram Maharana charging falsely that he is involved in various crimes. Seeing assault on Balaram Maharana, his friends Susant Mallik and Kanha Mohapatra ran away out of

fear. Thereafter, Balaram was brought to Sadar PS in the police jeep along with his motorcycle for verification. The Addl. S.P further reports that the Sub-Inspector of Police did not provide sufficient water and food to Balaram during his stay at the police station for which he had to suffer a lot. In the evening of 14-05-2012 at about 7.30 pm he suffered with ailments for which he was taken to the District Headquarters Hospital, Puri in an auto rickshaw by his brother-in-law Laxmi Prasad Maharana and younger brother Brundaban Maharana. He was admitted in the Male Medicine Ward and was given treatment. On 15-05-2012 at about 11.30 am he was referred to SCB Medical College and Hospital, Cuttack for C.T Scan, but on the way to Cuttack he was taken to Apollo Hospital, Bhubaneswar as urgency of treatment was felt and was admitted and treated there from 15-05-2012 to 18-05-2012. Later he was discharged on medical advice on 18-05-2012 evening.

The Superintendent of Police, Puri has stated in his report that there was gross misconduct on the part of the Sub-Inspector of Police, Srikanta Kumar Tripathy who had exceeded his limits and had used extra legal means causing suffering to the victim. He has been called for an explanation as to why departmental action should not be initiated against him for his lapses and gross misconduct and dereliction in duty.

On perusal of the reports mentioned above, there can be no iota of doubt the Sub-Inspector of Police, Srikanta Kumar Tripathy without any reason assaulted Balaram Maharana and brought him to Sadar Police station where he was even not provided with sufficient water and food during his stay at the police station. It is a clear case of exceeding limits amounting to dereliction of duty. Balaram Maharana was assaulted for no fault and had to undergo medical treatment.

In view of the above, the Commission hereby awards compensation of Rs. 50,000/- (Rupees fifty thousand) in favor of the injured



victim Balaram Maharana under section 18(a)(i) of the Protection of Human Rights Act, 1993.

### Compliance by the Public Authorities

Date: 06-11-2012

Pursuant to the order of the Commission dated 11-9-2012, the Addl. DG of Police, HRPC, Odisha vide his letter No.5039/HRPC dated 25-9-2012 has reported that the compensation amount of Rs.50,000/- has been paid to the victim Balaram Moharana and has submitted a copy of the stamped money receipt as proof thereof.

In compliance to the order of the Commission dated 27-12-2012, the Superintendent of Police, Puri vide his letter No.580/DHRPC dated 19-2-2013 has reported that as the show-cause received from the erring officer was found not satisfactory, a proceeding vide Puri District Proceeding No.27/12 has been initiated against him.

Since the compensation amount has already been disbursed to the victim and a disciplinary proceeding has been initiated against the erring officer, the Commission does not consider it necessary to continue further with the enquiry. The case is, therefore, closed.

**Case No-1564/2011      Date: 18-04-2012**

This complaint dated 08-05-2011 of advocate Prabir Kumar das addressed to National Human Rights Commission has been received on transfer for disposal by this Commission. The petitioner has enclosed a press clipping from Bhubaneswar issue of daily Statement dated 15-04-2011 alleging that one Satyaprava Mishra admitted in the Sub-divisional Hospital, Kamakshyanagar required immediate blood transfusion because of postpartum haemorrhage, but the Hospital did not have adequate amount of B+ blood and she died being transferred to the District Headquarters Hospital.

In view of the allegation as above,, a copy of the petition along with the press

clipping be sent to the Chief District Medical Officer, Dhenkanal with a request to get the matter enquired into and submit a factual report to the Commission in four weeks' time.

The CDMO, Dhenkanal vide his letter No.1862 dated 29-5-2012 has submitted the enquiry report of ADMO(FW), Dhenkanal.

It is admitted in the report that there was no stock of B +ve blood on 1-4-2011 when Satyaprava Mishra was admitted for labour pain at 6:30 p.m. on that day by O&G specialist, Kamakshyanagar Dr. Miss Gita Patra. The patient had history of uneventful first delivery and she had no problem until the end of the third stage of labour. During the fourth stage at about 4 p.m. when there was abrupt massive bleeding which could not be controlled, she was transferred to DHH for blood transfusion and further management as there was no B +ve blood in the stock and on the way she succumbed to death.

It cannot be assumed that the attending doctor had no history sheet of the patient. That B +ve blood was not available at stock on 1-4-2011 was a known fact. Having regard to the condition of the patient, it should have been explored to collect B +ve blood through donors who are now-a-days readily available and without doing it referring the patient to the DHH for blood transfusion and further management is condemnable.

As it is a case of medical negligence resulting in death of the patient, the Commission awarded compensation of Rs.1,00,000/- in favour of the NOKs of the deceased Satyaprava Mishra u/s 18(a)(i) of the Protection of Human Rights Act, 1993.

Copy of this order be sent to the Commissioner-cum-Secretary to government, Health and Family Welfare department. He be requested to take necessary steps for payment of compensation amount of Rs.1,00,000/- (Rupees one lakh) to the NOKs of the deceased Satyaprava Mishra within four weeks of receipt of this order and report compliance.



### Compliance by the Public Authorities

Date: 03-06-2013

The Collector, Dhenkanal appeared before the Commission today. He has sent a report vide his letter No.412 dated 30-5-2013 stating that the compensation amount of Rs.1 lakh has been disbursed to the NOK of the deceased.

Since the amount has already been disbursed to the NOK of the deceased, this case is hereby closed.

**Case No-1503/2010 Date : 21-11-2012**

This is a sou-motu proceeding initiated on the basis of wireless message received from the Superintendent, Sub-Jail, Aska, Ganjam disclosing custodial death of under trial prisoner- Suresh Nahak.

On being noticed, the Inspector General of Prisons and DCS, Odisha in letter no.29532 dated 25-10-2010 has submitted the enquiry report. In letter no 825 dated 10-01-2011 the I.G of Prisons and DCS, Odisha has submitted further report by enclosing copies of statement of witnesses and the post-mortem examination report. He has also sent further report vide letter no.11385 dated 16-04-2011.

From the above reports, it appears that under trial prisoner Suresh Nahak, aged about 29 years was admitted in Sub-Jail, Aska on 16-02-2010 on being remanded by Judicial Magistrate, 1<sup>st</sup> Class Aska in GR case no.17/2008 under sections 394/302/216(A)/412/201/31 IPC read with sections 25 & 27 Arms Act along with other cases pending against him in the Curt of Addl. District Judge, Bhanjanagar vide SC no.3/2008 & ST no.13/2010 in the Court of Addl. District Judge (FTC), Aska. He was Transferred from Aska Sub-jail to Circle Jail, Berhampur on administrative grounds after obtaining permission from the Addl. District and Session Judge, Aska. He was again remanded to Sub-Jail, Aska by the order of the Addl. Session Judge (FTC), Aska. He was staying in Ward no.6 in Sub-Jail, Aska. On 24-08-2010 at about 6 pm during lock-up

time, six numbers of UTPs namely Kutuli alias Iswar Naik, Risi alias Kalia Behera, Silu alias Goutam Palai, Rabi Nahak, Don alias Subrat Padhi and Kuna alias Manoj Pradhan of Ward no.3 suddenly rushed into Ward no.6 and assaulted UTP Suresh Nahak overpowering the jail staff present there. The jail staff could not rescue the UTP Suresh Nahak from assault inflicted by the aforesaid six criminals. Suresh Nahak fell down and became senseless. After assaulting they came back to Ward no.3. Suresh Nahak was brought to the Jail Ward no.6 and assaulted the UTP Suresh Nahak. At that time, Warder Majhi Babu, Warder Kartik Behera, Zamadars Kanhar Babu and Patra Babu were present. They tried to save Suresh Nahak from being assaulted but failed in their attempt. UTPs Narayan Pradhan, Pravakar Das and Duba alias Pratap Gouda narrated the same version as deposed by UTP Satyanarayan Patra.

On careful perusal of the enquiry reports and statements of the eye witnesses, the Commission is inclined to hold that in the evening of 24-08-2010 during lock up time, six UTPs from Ward no.5 rushed to Ward no.6 and assaulted UTP Suresh Nahak mercilessly. The Warders and Zamadars who were present could not save him from being assaulted. The injured was first taken to Jail Medical and thereafter he was shifted to MKCG Medical College and Hospital, Berhampur where he was received dead.

The jail staff, who were present at the spot, could have alerted the security staff of the jail and sought for reinforcement, but they did not. There appears to be some sort of negligence and the incident could have been averted.

The deceased UTP was aged about 30 years. Considering the circumstances in which he lost his life, the Commission awarded compensation of Rs.2 lakh u/s 18(a)(i) of the Protection of Human Rights Act, 1993 which shall be paid to the NOK of the deceased UTP Suresh Nahak.



A copy of this order was sent to the Principal Secretary to Govt., Home Department, Bhubaneswar. He be requested to take steps for payment of the above amount to the NOK of the deceased within four weeks of receipt of the order and report compliance.

### Compliance by the Public Authorities

Date: 14-03-2013

Pursuant to the order of the Commission dated 21-11-2012, the Home Department vide its memo No.6825/C&HR dated 21-2-2013 has conveyed sanction of Rs.2,00,000/- towards payment of compensation to the NOK of the deceased UTP Suresh Nahak and the Addl. DGP-cum-IG of Prisons & DCS, Odisha has been requested to draw the amount and disburse the same.

In view of the above, the Addl. DGP-cum-IG of Prisons & DCS, Odisha was requested to draw the above compensation amount and disburse the same to the NOK of the deceased UTP Suresh Nahak and report compliance to the Commission in four weeks' time.

### **Case No-92/2013                      Date: 15-01-2013**

In this complaint of V. Santamma (78), widow of late V. Surya Narayan who was serving as a teacher under Paralakhemundi Municipality and died in the year 1973, she alleges that though she is the legally married wife of the deceased and has applied for pensionary benefits, she has not received the same so far despite her personal appearance before the Secretary, School and Mass Education Department and correspondence since last 13 years.

In view of the allegation as above, a copy of the petition be sent to Secretary to Government, School and Mass Education Department with a request to get the matter enquired into and submit a factual report to the Commission in four week's time.

Perused the report of the Commission-Cum-Secretary, School and Mass Education

Department dated 18<sup>th</sup> December, 2013. The grievance of the petitioner is that her husband Late V. Suryanarayan was a teacher in Paralakhemundi Municipality School, who died while in service in the year 1973. The grievance of the petitioner is that she has not received the pensionary benefits which are due to her husband. After protracted correspondences, it is reported by the Commissioner-cum-Secretary, School and Mass Education Department that at the time of death of V. Suryanarayan, the Orissa Non-Govt. Primary Teachers' Contributory Provident Fund-Insurance Pension Rules, 1966 was in vogue with effect from 1<sup>st</sup> April, 1964 and that Rule contained no provision for grant of family pension in favour of the deceased teacher and for the first time the concept of family pension for the teachers of Odisha Non-Government Fully Aided Primary Schools came into force with effect from 1<sup>st</sup> September, 1988, which provides that the family of a pensioner or family of an employee, who died on or after 1<sup>st</sup> September, 1988, shall be entitled to get family pension and T.I as admissible to the family of the counterpart in the State Government Service. As against the said Notification of the School and Mass Education Department, number or Writ Petition were filed in the High Court of Orissa and the leading case was O.J.C No.3891 of 2000 filed by Subarna Dibya and others. It is further seen from the report of the Commissioner-cum-Secretary, School and Mass Education Department that challenging the order of the Hon'ble Court, the Government has preferred S.L.P before the APEX Court & the said S.L.P, is still pending. Thus, when the Hon'ble the Apex Court is in seisin of the matter i.e., with regard to the propriety of the order of the Hon'ble High Court of Orissa passed in O.J.C No.3891 of 2000 disposed of on 10<sup>th</sup> May, 2004, this Commission cannot decide as to whether the petitioner who happens to be the wife of Mr. Suryanarayan, a teacher of Paralakhemundi Municipal School, who died in the year 1973 while in service would be entitled



to family pension or not. In the circumstances in views of the report of the Commissioner-cum-Secretary, School and Mass Education Department, further proceeding in this case stand closed and the case stands disposed of.

**Case No-107/2011      Date: 19-01-2011**

News items under caption “KONARK RE BIDESININKU PUNI DURBYABAHARA” published in the daily ‘SAMBAD’ under caption “KONARK RE BIEDSI DAMPATINKU DURBYABAHARA” published in the daily ‘SAMAJ’ and under caption “KONARK RE BIDESININKU ASADACHARAN, BIDESINKU MADA” published in the daily ‘DHARITRI’ in their issues dated 18-01-2011 reveals indecent behaviour and harassment caused to a lady tourist from the country of Iran at Konark on 17<sup>th</sup> January, 2011 during the noon time by a group of youth named Y. Govinda, Md. Fazal, K. Santosh, T. Ganesh, D. Ruksana, G. Govind, and K. Madhir. It is further alleged that when they were asked to refrain from such indecent behaviour, they assaulted the foreign tourists.

Since such indecent behaviour and assault to foreign visitors is not only a serious violation of human rights, but also conveys an extremely derogatory message for the State, such matters call for strong action on the part of the police against the culprits.

Copies of the news items as above be sent to the Superintendent of Police, Puri with a request to submit a report to the commission about the action taken in the matter in four week’s time.

In the ‘Times of India’ in its edition dated 19-1-2011, a news item has appeared indicating that the State Government is gearing up to tap the Buddhist tourism potential of the State to woo more tourists from South Korea.

This being the position, the Department of Tourism and Culture should not be a silent spectator to the incidence of foreign tourist being assaulted and humiliated during their visit to places of site seeing in the State. It

is necessary to initiate measures in tourist places. A copy of this order along with copies of news items be sent to the Principal Secretary to Government, Tourism and Culture Department with a request to furnish a report indicating measured taken/contemplated in this regard in four week’s time.

Put up the case on 04-3-2011 awaiting reports as above.

In compliance to the order of the Commission dated 27-6-2011, report has been received from the Executive Officer, Puri Municipality vide his letter No.169 dated 7-1-2012 stating that Puri Municipality has engaged 675 Safei Karmacharies for cleaning of the entire city specifically the Sea Beach and Grand Road. It has also installed 5413 numbers of different light fittings in the entire town and special attention has been given for illumination of the Grand Road and the Sea Beach area.

In compliance to the said order of the Commission, report has been received from the Director, Tourism & Addl. Secretary to Government vide his letter No.10735/TSM dated 24-10-2011. It is stated in the report that an amount of Rs.1.5 crores has been made in the budget for deployment of tourist police, beach clearing and life guard safety equipment. The provision for “relief fund” is being made in the supplementary budget. It is also stated that a coordination meeting was held on 26-9-2011 under the Chairmanship of Chief Secretary.

The Director, Tourism & Addl. Secretary to Government was requested to submit in four weeks’ time a copy of the minutes of the said coordination meeting held on 26-9-2011 for perusal of the Commission.

No report has been received either from the Principal Secretary to Government, Home Department or from the Collector, Puri in compliance to the order of the Commission dated 27-6-2011 and subsequent reminders vide orders of the Commission dated 29-8-2011, 20-10-2011 and 5-12-2011. They were



reminded to submit the report called for in four weeks' time.

### Compliance by the Public Authorities

Dated 28-06-2013

In compliance to the order of the Commission dated 18-3-2013, report has been received from the Director & Addl. Secretary to Government, Department of Tourism & Culture vide his letter No.6911/TSM dated 4-6-2013. It is stated in the report that a Tourist Emergency Fund to provide financial assistance to the tourists facing disaster situation has been created with the funds from the Chief Minister's Relief Fund. It is also stated that guidelines for availing assistance have been formulated and circulated to all Collectors/all Superintendents of Police/all RDCs and all Tourist Officers.

In view of the above, the Commission does not consider it necessary to proceed further with the enquiry. The case is, therefore, closed.

### **Case No-2521/2011      Date: 02-07-2012**

It is alleged in the petition that Birendra Bagh of Kamasara under Tarava PS had gone to his father-in-law's house at Badburkabahal on 29-6-2011. On 1-7-2011 at about 3 pm a police team consisting of some officers entered into the house and arrested Birendra Bagh without disclosing the reason for his arrest. They took him first to Bolangir PS and half an hour thereafter to Loisingha PS, where he was detained in the custody for four days.

The Addl. SP, Bolangir in his letter No.1392/HRPC dated 30-6-2012 has submitted the report enclosing a copy of the enquiry report of DSP (Hdqs), Bolangir. The Addl. SP in his report admitted the illegal detention of Birendra Bagh, for which the erring Inspector Suprava Sahu has been asked to explain the matter and departmental action has been initiated against her.

From the enquiry report, it is evident that there was no justification for detention of Birendra Bagh in the police hazat at

Loisingha for four days i.e. from 4-7-2011 to 7-7-2011 on so called 'reliable' information. Since it is a clear case of illegal detention as fairly admitted by the Addl. SP, the Commission awarded compensation of Rs.50,000/- to Birendra Bagh u/s 18(a)(i) of the Protection of Human Rights Act, 1993.

It is relevant to note here that the said Birendra Bagh has given his statement in writing saying that he was properly treated in the hazat. The said document appears to be a self-serving document and the Commission does not take cognizance of it.

The Principal Secretary to Govt., Home Department was requested to take necessary steps for payment of compensation of Rs.50,000/- to Birendra Bagh and report compliance to the Commission in four weeks' time.

### Compliance by the Public Authorities

Date: 02-04-2013

In compliance to the order of the Commission dated 17-12-2012, the AIG of Police (Prov.), Odisha vide his memo No.1417/Con dated 23-3-2013 has reported that the compensation amount of Rs.50,000/- has been paid to Birendra Nag.

Since the compensation amount has already been disbursed to the victim, the Commission does not consider it necessary to continue further with the enquiry. The case is, accordingly, closed.

### **Case No-217/2012      Date:17-05-2013**

The allegation of the petitioner Niranjana Nayak was that on 12-2-2012 at about 11 pm Mancheswar police picked up his son Kalia Nayak, severely assaulted him and tried to extract confession of commission of theft, though there was no complaint against him at Mancheswar PS.

On being noticed, the Deputy Commissioner of Police, Bhubaneswar vide his letter No.915/DHRPC dated 26-4-2012 reported that Rabindra Kumar Nayak @ Kalia, son of



the petitioner was arrested in Mancheswar PS case No.31 dated 15-2-2012 u/s 379 IPC and was forwarded to Court. One stolen Bajaj Discover motorcycle was seized from his possession.

Responding to the report, the petitioner disputed the report and stuck to his complaint that his son was picked up by SI Senapati of Mancheswar PS from his house on 12-2-2012 apparently for theft of a gold chain. But the lady, whose chain was stolen, denied that his son Rabindra Nayak has stolen the chain. His son was subjected to computer test, but nothing adverse was found. So the police, in order to justify action having been taken against his son, got him implicated in a theft case of motorcycle and forwarded him to Court on 16-2-2012.

Commenting on the above response, the ACP, Zone-V, Bhubaneswar denied the entire allegation of the petitioner. As per his report, computer test/lie detection test was conducted keeping in view involvement of Rabindra Nayak in other crimes. However, he was arrested on 15-2-2012 only and was forwarded to Court on 16-2-2012 in Mancheswar PS case No.31/2012 which has in the meanwhile been charge-sheeted u/s 379 IPC.

The police reports as above were found rather sketchy. The details of involvement of Rabindra Nayak in the so stated 'other crimes', for which computer test/lie detection test was conducted, were not indicated. No corroborating material like arrest memo etc. had been submitted supporting the assertion of police that he was arrested on 15-2-2012 only. Very little was reported about Mancheswar PS case No.31/2012 as to what type of complaint was received and how the investigation proceeded in that case culminating in arrest of the son of the petitioner and forwarding him to Court custody.

In view of the fact that Mancheswar PS case No.31/2012 was reported to have been charge-sheeted, the Commission refrained from looking into the merit of the said case.

However, the Commission desired to have the full fact in order to address the complaint of the petitioner that his son was arrested since 12-2-2012.

The Addl. DGP-cum-Director, Investigation, OHRC was requested vide order of the Commission dated 11-3-2013 to get the matter enquired into through one of the officers under his control and submit a factual report for perusal of the Commission.

In compliance, the Director, Investigation, OHRC vide his letter No.6914 dated 3-5-2013 submitted the enquiry report of Inspector S.N. Pradhan.

Inspector S.N. Pradhan made a presentation of his report before the Commission today.

From the report submitted and presentation made by Inspector S.N. Pradhan, the Commission notes that he has examined the complainant and his people, the concerned police officials and several witnesses, besides verification of relevant documents/case records. While the IO SI B.R. Senapati asserts that he arrested the son of the petitioner Kalia & Rabindra Nayak on 15-2-2012 at 4:30 pm during MV checking in front of the Mancheswar PS, independent witness Smt. E. Parbati, resident of Trinath Basti, Press Colony states that she has seen the police taking Kalia Nayak from his house in the late night hour. Another witness Banchanidhi Nayak of village Gadakana Sabar Sahi states that on 13-2-2012 he and some other villagers had been to Mancheswar PS after knowing that Kalia Nayak has been arrested by the Mancheswar PS in the night of 12-2-2012. They found him there in the police lock-up and he told them that police has physically tortured him in the last night.

The above statement of Banchanidhi Nayak has been supported by other witnesses, namely Tapan Nayak, Japani Nayak, Smt. Rili Nayak, Smt. Sajani Nayak and Smt. Badani Nayak, who had accompanied Banchanidhi



Nayak to Mancheswar PS. One Chittaranjan Mandal, Secretary of Kalinga Basti Unnayan, Bhubaneswar also states the same thing.

It is also noted that on complaint of a lady Smt. T.V. Saraswati about theft of her gold chain by some unknown culprits, Mancheswar PS case No.23 dated 9-2-2012 was registered u/s 379/34 IPC. The petitioner and the witnesses stated that being called by the police, Smt. Saraswati came to the PS for identification of the culprit, where she denied involvement of Kalia Nayak. But SI B.R. Senapati, who happened to be the IO of the case No.23/2012, categorically states that no lady had come to the PS for identification of any suspected person in the said case. This statement of the IO is contradicted in the statement of Sri A.Satya Narayan, Assistant Professor, IIT, Bhubaneswar, who clearly says that he and his mother (Smt. Saraswati) had come to the PS for identification of the culprit after about five days of the incidence (9-2-2012) of chain snatching. The IO in his statement admits that he is unaware of any previous crime record of Kalia Nayak.

In the arrest memo, there is no signature of any witnesses. It is simply noted that the arrest was intimated to the father of the arrestee, who denied to sign. The seizure memo has been signed by witnesses Lingaraj Barik and Biswambar Das, who, on examination by Inspector S.N. Pradhan, admitted that they have put their signatures on being so asked by the police and none of them has stated to have seen Kalia Nayak with the motorcycle being seized by the police on 15-2-2012 at the spot of MV checking.

From the evidence as above, the Commission is inclined to hold that the victim Kalia @ Rabindra Kumar Nayak, against whom apparently there was no previous crime record, was arrested by the Mancheswar police on 12-2-2012 and was detained at the Mancheswar PS for more than three days violating Article 22(2) of the Constitution of India until he was forwarded to the Court on 16-2-2012.

In view of the above, the Commission awarded a compensation of Rs.50,000/- in favour of the victim Kalia @ Rabindra Kumar Nayak under section 18(a) of the Protection of Human Rights Act, 1993.

A copy of this order was sent to the Principal Secretary to Government, Home Department with a request to arrange payment of the above amount to the victim and report compliance to the Commission in four weeks' time.

SI Biswa Ranjan Senapati of Mancheswar PS, responsible for the illegal detention as above, has been examined by an officer of this Commission and his statement considered by the Commission while passing this order. The State Government may initiate suitable action as deemed fit against him.

#### Compliance by the Public Authorities

Date: 06-09-2013

In compliance to the order of the Commission dated 17-5-2013, the Home Department vide its letter No.32758 dated 3-9-2013 has reported that the compensation amount of Rs.50,000/- has been paid to the victim Kalia @ Rabindra Kumar Nayak and a copy of the stamped money receipt as proof thereof has been enclosed. It is also reported that the DG & IG of Police, Odisha has been requested to initiate disciplinary proceeding against SI B.R. Senapati of Mancheswar PS.

Since the compensation amount has already been disbursed to the victim and disciplinary action is being initiated against the delinquent officer, the Commission does not consider it necessary to continue further with the enquiry. The case was, therefore, closed.

**Case No-2954/2012**      **Date: 12-03-2013**

Karana Pangi of Daraguda under the Semiliguda PS limits in his petition dated 7-8-2012 alleged that because the Janani Express did not arrive in time for giving service to his wife, who was in acute labour, she died for want of medical care.



On notice, report has been received from the Chief District Medical Officer, Koraput vide his letter No.7912 dated 5-12-2012 stating that on 9-6-2012 Mamata Pangti (22), wife of the petitioner, had second gravid labour pain with leaking membrane. The husband of the deceased rushed to call the ASHA, but she was absent. He contacted the local Janani Express driver, who replied that as the vehicle is out of order due to tyre puncture, he cannot come to the village. With a lot of difficulty, Karna Pangti and his brother tried to arrange an auto-rickshaw for her transportation to CHC, Kunduli. In the meanwhile, at about 9:45 pm Mamata gave to a baby girl and developed some complication. Karna Pangti rushed to the nearest village to seek help of AWW, who advised him to shift the patient to hospital by the auto-rickshaw. The patient was, thus, shifted to the CHC around 10:30 pm, where she was declared brought dead. The doctor and staff nurse of the CHC opined that the lady might have died because of PPH due to retention of placenta.

The driver of the Janani Express had not informed the trouble of the vehicle either to the MO I/C or the owner of the vehicle to repair the vehicle and the owner has been asked to remove the driver.

The facts as above revealed improper functioning of the system. The local ASHA was not available and no reason has been given in the report as to why she was not available. The driver refused to come to the aid of the patient on the ground that there is a puncture. No reason has been given as to why the vehicle did not carry a Stepney. The fact that the owner has been asked to remove the driver, shows that there was fault on the part of the driver. Because of malfunctioning of the system, a precious life was lost.

The Commission, therefore, holds that human rights of the victim Mamata Pangti have been violated and hereby awards a compensation of Rs.1,00,000/- (one lakh rupees) in favour of the next of kin of the

deceased Mamata Pangti. The report shows that she delivered a baby girl. In fact the baby herself is a victim as she lost her mother at such a tender age. In case the baby is surviving, half of this amount of compensation should be kept in a fixed deposit in her name till she becomes a major.

A copy of this order was sent to the Secretary to Government, Health & Family Welfare Department with a request to arrange payment of the above compensation amount as above and report compliance to the Commission in four weeks' time.

### Compliance by the Public Authorities

Date: 13-03-2014

Report dated 1-3-2014 of the Addl. District Magistrate, Koraput received pursuant to the direction of this Commission dated 9-12-2013. The report reveals that the compensation amount of Rs.1,00,000/- has already been disbursed to the next of kins of the deceased Mamata Pangti on 29-1-2014 and a copy of the stamped money receipt as proof thereof has been enclosed to the report.

Since the compensation amount has already been disbursed to the next of kins of the deceased, the Commission does not consider it necessary to keep this matter pending and, accordingly, the present proceeding stands disposed of.

**Case No-1081/2012**      **Date: 04-12-2012**

Rukdhar Sunani, SI of Schools, Khariar in his petition dated 9-1-2012 stated that he had filed a complaint before his higher authorities against one Rajendra Prasad Mahapatra, a primary school teacher. The allegation of the petitioner is that at the instance of the said Rajendra Mahapatra, seven police officials of Khariar PS led by ASI Dileswar Das, Khariar PS in an intoxicated state trespassed into his house on 21-12-2011 at about 1:30 am, assaulted and abused him by his caste, dragged him out from his quarter. He was taken to the PS, and there, he was mercilessly beaten. After his release on the



next day at 10 am, the petitioner came to know that Rajendra Mahapatra had filed an FIR alleging that he was attempting to murder him. The grievance of the petitioner is that the FIR lodged by his wife has not been registered till date.

On being noticed, the Superintendent of Police, Nuapada vide his letter No.722/Con dated 23-11-2012 has submitted a report of DySP (Hdqs), Nuapada who enquired into the matter. It is stated in the report that due to irregular attendance and misappropriation of Government money, departmental proceeding was initiated against a teacher named Rajendra Kumar Mahapatra through SI of Schools, Rukdhar Sunani, for which enmity between both of them started. The said teacher filed a petition before the Superintendent of Police, Nuapada in public grievance on 19-12-2011, based on which Khariar PS case No.221 dated 19-12-2011 u/s 506 IPC was registered against the petitioner and the case was entrusted to SI D.S. Dash of Khariar PS for investigation. Accordingly, in the night of 21/22-12-2011 at about 1:30 am SI Dash went to the house of the petitioner with four Home Guards to arrest the petitioner in that odd hour. He knocked the entrance door and when there was no response, he kicked the door hard, for which the iron bolt of the door was broken. Thereafter, SI entered into the entrance room and again kicked the wooden door of the bed room, where the petitioner's wife, daughter and his minor child were asleep. The upper clip of the inside door has been completely uprooted. Thereafter, SI Dash searched for the petitioner and ultimately dragged him to the police jeep, when the petitioner was only with lungi, shirt and muffler. The wife of the petitioner requested the SI to take her husband in the morning, but SI did not pay any attention to her request.

It is categorically stated in the report that SI Dash did not observe the formalities of search/arrest as per law and overacted against human dignity and misused the power of search/arrest conferred by law. He did not

intimate the Inspector-in-Charge, Khariar PS about the matter of arrest and detention of the accused.

The Commission is surprised to see that on a case registered u/s 506 IPC, a police officer acted so ruthlessly in disregard to all human ethics. According to the report, SI D.S. Dash has already placed under suspension w.e.f. 22-12-2011 and a departmental proceeding has been initiated against him.

Keeping in view the suffering of the petitioner due to misconduct on the part of a police officer, the Commission awarded a compensation of Rs.50,000/- in favour of the petitioner Rukdhar Sunani, SI of Schools u/s 18(a) of the Protection of Human Rights Act, 1993.

A copy of this order was sent to the Principal Secretary to Government, Home Department with a request to arrange payment of the above compensation amount to the victim Rukdhar Sunani and report compliance to the Commission in four weeks' time. He should also ensure stringent disciplinary action against the delinquent SI of Police after giving him an opportunity of being heard.

#### Compliance by the Public Authorities

Date: 17-05-2013

Pursuant to the order of the Commission dated 21-3-2013, the Spl. DG of Police (Hdqs), Odisha vide his memo No.1653/Con dated 9-4-2013 has reported that the compensation amount of Rs.50,000/- has been paid to the victim Rukdhar Sunani.

Since the compensation amount has already been paid to the victim and a disciplinary has been initiated against the delinquent SI of Police D.S. Dash, the Commission does not consider it necessary to continue further with the enquiry. The case is, accordingly, closed.

**Case No-122/2010**

**Date: 17-04-2012**

Gitarani Mohanty, widow of late Nirmal Chandra Mohanty in her petition dated 22-1-



2010 stated that her late husband during his incumbency as Tahasildar, Bhubaneswar during the period 1979-81 was arrested on 6-11-2009 and lodged in the Special Jail, Bhubaneswar. He complained of acute chest pain on 26-12-2009, but was not given proper medical care and finally died on 2-1-2010 while under treatment at SCB Medical College & Hospital, Cuttack. She also claimed compensation and grant of pension/family pension with effect from the date of retirement of her late husband in 1992.

In view of the allegation of negligence in providing medical care, the IG of Prisons & DCS, Odisha was requested to submit a detailed factual report in the matter. The Commissioner-cum-Secretary to Government, Revenue & Disaster Management Department was also requested to submit a report regarding sanction of pension/family pension.

In compliance, the IG of Prisons & DCS, Odisha submitted reports vide his letters No.4039 dated 11-2-2011, No.22316 dated 5-8-2011, No.32842 dated 22-11-2011, No.34826 dated 12-12-2011 and No.6650 dated 29-2-2012. From his reports, the Commission notes that the deceased Nirmal Chandra Mohanty (70) was admitted in Special Jail, Bhubaneswar on 6-11-2009 in GR case No.965/2005 u/s 468/471/420/167/120(b)/34 IPC. He was being given treatment in the jail hospital regularly. The treatment records which were seized by the Mangalabag police have been transmitted to the record room of SCB Medical College & Hospital, Cuttack for preservation. However, as reported on 30-12-2009 the said UTP was shifted for specialized treatment to Capital Hospital, Bhubaneswar and then to the SCB Medical College & Hospital, Cuttack on 1-1-2010 and admitted in its Medicine Ward, where he expired on 2-1-2010. The medical opinion on the cause of death is said to be 'Pyelonephritis' which is a natural disease process.

While the Commission does not see evidence of any foul play in the death of the

deceased Nirmal Chandra Mohanty, it is noted that he was sent to hospital for specialized treatment on 30-12-2009 at a rather belated stage i.e. just 3 to 4 days prior to his death, which amounts to negligence in medical care on the part of the jail authorities.

Keeping in view the position as above, the Commission hereby awards compensation of Rs.1,00,000 (rupees one lakh) under section 18(a)(i) of the Protection of Human Rights Act, 1993. The Principal Secretary to Government, Home department was requested to draw the amount and disburse the same to the next of kins of the deceased in four weeks' time.

From the reports received from the Revenue & Disaster Management Department vide its letters No.6534/R&DM dated 11-2-2011, No.931/R&DM dated 26-5-2011 and No.14864/R&DM dated 31-3-2012, the Commission notes that late Nirmal Chandra Mohanty, ex-OIC, Collectorate, Puri was retired compulsorily w.e.f. 29-4-1993 pursuant to disposal of disciplinary proceeding which he had not challenged. He had also not submitted any pension papers to the Collector, Puri and his original service book is not available and reportedly it was kept by the deceased. Now vide order of the Revenue & Disaster Management Department, the provisional family pension has been sanctioned on 28-2-2012 @ Rs.3500/- plus TI as admissible w.e.f. 3-1-2010.

The Commission has already expressed its dissatisfaction vide its order dated 29-12-2011 over the delay caused in finalisation of pension/family pension case of the deceased. It understands that because of want of service book the pay fixation has not taken place and the pension has not been sanctioned. The family pension has been allowed at the minimum scale.

While the provisional pension as sanctioned above could be continued for providing livelihood support to the petitioner, all efforts must be taken to carryout



expeditiously the job of pay fixation and sanction of regular pension of the deceased.

The Principal Secretary to Government, Revenue & Disaster Management Department was requested to review the progress of the matter and submit progress report to the Commission in four weeks' time.

### Compliance by the Public Authorities

Date:03-12-2013

The report from the Government in Revenue & Disaster Management Department dated 12-11-2013 is perused. It is reported that the pension papers with regard to the grant of family pension of Smt. Geetarani Mohanty has been forwarded to the AG (A&E), Odisha by the Collector, Puri and the AG (A&E), Odisha has been requested to issue the authority slip, as family pension has already been sanctioned by the Administrative Department.

In the premises, when necessary action with regard to the sanction of family pension payable to Smt. Geetarani Mohanty, widow of late N.C. Mohanty has been taken, hardly there is anything further for this Commission to take any follow up action in the matter.

In the premises, this proceeding stands closed.

### **Case No-1796/2012      Date: 25-02-2013**

Mamata Tarei of Siandi under the Krushna Prasad PS of Puri district in her petition dated 1-6-2012 alleged that co-villagers named in the petition malign her of practising witchcraft and inflicted on her fine of Rs.1 lakh and asked her to leave the village in case the fine amount is not paid. They also threatened her of life, as a result of which her family members have fled away from the village and now staying at a place of Ganjam district taking a rented house and have to pass a very hard life there. They do not get BPL rice at the new place and have lost the same for the last one and half years. Further, they are not able to take care of their own house and

other properties as they are not able to come to the village out of fear of life. They had lodged a complaint at Krushna Prasad PS, but the same was not accepted by the OIC.

The Commission has made it very clear in several cases that stringent action be taken by the police against people who torture others on suspicion of witchcraft/sorcery. The Superintendent of Police, Puri was requested vide order of the Commission dated 8-6-2012 to get the matter enquired into and submit a factual report to the Commission.

In compliance, the Superintendent of Police, Puri vide his letter No.3998/DHRPC dated 19-11-2012 submitted a copy of the enquiry report of IIC, Krushna Prasad. From the enquiry report, the Commission observes that the complaint made by the petitioner is by and large true. Blaming a case of suicide in the village on the witchcraft allegedly practised by the petitioner and her husband, the village committee imposed a fine of Rs.1 lakh to be paid by them in 24 hours or to vacate the village with family, for which the victim couple had to leave their property in the village and stayed in a rented house at village Palur under the Rambha PS. At the new place they were not entitled to receive the PDS stuff and the children suffered in their education. It is also reported that the petitioner did not report about the incidence at the PS as she was hoping for a settlement with the villagers and even now she is not interested for any legal action against the villagers as they have to stay in the village in future.

A copy of the report as above was sent to the petitioner vide order of the Commission dated 4-1-2013 for her information and response, pursuant to which a submission dated 4-2-2013 has been received from the petitioner reiterating her grievance.

Since harassment meted out to the petitioner and her husband suspicion of practice of witchery is corroborated in the police report, the Commission holds that they have been



victims of such torture by the community owing to blind belief and the society, as a whole, owes it to them. The Commission, therefore, awarded a relief of Rs.50,000/- (fifty thousand) in favour of the petitioner Mamata Tarei and her husband Benudhar Tarei under section 18 of the Protection of Human Rights Act, 1993.

A copy of this order was sent to the Principal Secretary to Government, Home Department with a request to arrange payment of the above amount to the petitioner and her husband and report compliance to the Commission in four weeks' time.

The reluctance of the petitioner to proceed legally against the villagers is quite understood because they have to stay in the village in future. Therefore, the local police and the district administration have to behave proactive and ensure that all facilities are made available to the petitioner and her family members and they are not harassed further by any of the villagers. In case anyone is found to be taking law into his hands and harassing them, he should be sternly dealt with.

A copy of this order was sent to the IIC, Krushna Prasad and BDO, Krushna Prasad for their information and appropriate action in the matter.

#### Compliance by the Public Authorities

Date: 26-09-2013

In compliance to the order of the Commission dated 25-04-2013, the Spl. DG of Police (Hdqs), Odisha vide his letter No.5043 dated 6-9-2013 has reported that the relief amount of Rs.50,000/- has been disbursed to the petitioner Mamata Tarei and her husband Benudhar Tarei. A copy of the stamped money receipt as proof thereof has been enclosed.

Since the relief has already been disbursed, the Commission does not consider it necessary to continue further with the enquiry. The case is, therefore, closed.

#### **Case No-2159/2012      Date: 19-08-2013**

Kalandi Charan Bout in his petition received by the Commission on 7-7-2012 alleged that despite his working as a Sampler in the Directorate of Mines for the last 22 years as a contingent worker, he has not been regularised and now the Department plans to fill up the post through freshers. Subsequently, in support of his claim, he submitted a Resolution of Government of Odisha Finance Department dated 4-9-2012 which contained a scheme of grant of temporary status and absorption of casual/daily wage labourers engaged in different Government establishments against regular group-D vacancies.

During enquiry of this case, several reports have been received from the Director of Mines and the State Government in the Steel & Mines Department and several submissions have been filed by the petitioner.

After going through the above, the Commission notes that the State Government in the Finance Department in its circular dated 12-4-1993 had imposed a ban on engagement of persons on daily wage basis, work-charged employees and NMRs in Government establishments as an economy measures. However, with respect to workers, who had joined prior to the above date, the State Government made relaxation for the absorption of those NMR/DLR workers engaged in Engineering Departments. Later, vide Resolution dated 4-9-2012 the State Government extended the benefit to such casual workers in non-Engineering Departments and formulated a scheme for the benefit of casual/daily wage labourers engaged in different Government establishments prior to 12-4-1993 by conferring on them temporary status at the first instance and then to provide scope to them to be absorbed against regular vacancies.

The post of Sampler happens to be a group-D post in the Department of Steel & Mines and several employees, who are non-



Matriculates, have been regularised against these posts. However, it seems that the Department later raised the minimum qualification to HSC level for the post of Sampler. The date and circumstances under which this stipulation of qualification of HSC was made for the post of Sampler has not been indicated in any of the reports of the Government.

Now, when the turn of the petitioner and seven other similarly placed employees came for regularisation, the same was not considered by the Government on the ground that the minimum qualification has in the meanwhile been raised and instead, the Government took recourse to filling up the vacancies through freshers ignoring the fact that the petitioner and seven others are working satisfactorily for over two decades. The experience of 22 years of work does not seem to compensate for the couple of years' shortage in the revised requirement of educational qualification.

Despite full knowledge of the Department of Steel & Mines that it has been utilising the services of non-Matriculates for years in the post of Samplers and only some of them remained to be regularised, the compulsion on the part of the Steel & Mines Department to raise the minimum educational qualification for this post without making any relaxation for its own workers has not been indicated anywhere in their reports, and prima-facie, it sounds discriminatory and even arbitrary. The Department needs to review its own policy.

A copy of this order be sent to the Principal Secretary to Government, Steel & Mines Department with a note of advice to review the matter and consider at least the left-out vacancies in the post of Sampler as well as other group-D posts under the Department in favour of the petitioner and other similarly placed workers engaged prior to 12-4-1993.

With observation as above, the petition stands disposed of.

### Case No-2183/2012 Date: 19-11-2012

Prabir Kumar Das of Suka Vihar, Bhubaneswar in his petition dated 2-7-2012 enclosed a press clipping and stated that one Swarnalata Rout (1), a student of Class-V of Saika Primary School under the Kundan GP of Jajpur district got head injury as the heavy iron gate of the school collapsed on her and she succumbed to the injuries at the spot.

On being noticed, the Collector, Jajpur vide his letter No.2375 dated 20-10-2012 submitted a report of District Project Coordinator, SSA, Jajpur who enquired into the matter in presence of the villagers including the elder father of the deceased.

From the report, it appears that the pillars of the school gate were damaged and cracked some time back when a truck loaded with building materials rammed into the gate and the school, though took a note of the damaged iron gate, did not repair it immediately. In the meanwhile, on 6-7-2011 when the school was closed for the Car Festival, the deceased Swarnalata Rout started playing swing with the iron gate which collapsed and the girl got squeezed beneath the iron gate sustaining multiple injuries. She was rushed to the doctor at Chandikhol, but looking at the serious condition, the doctor advised that she be taken to Cuttack for treatment. She succumbed to the injuries on way to Cuttack.

It is clearly stated in the report that **“had the school management committee shown its promptness in repairing the damaged gate or dismantled it altogether, this unfortunate incident could have been averted”**.

Keeping in view the negligence as above which led to death of a small child, the Commission hereby awards a compensation of Rs.1,00,000/- (one lakh) to the next of kins of the deceased under section 18 of the Protection of Human Rights Act, 1993.

A copy of this order was sent to the Commissioner-cum-Secretary to Government,



School & Mass Education Department with a request to arrange payment of the above compensation amount in favour of the NOK of the deceased Swarnalata Rout and report compliance to the Commission within four weeks of receipt of this order

### Compliance by the Public Authorities

Date: 28-04-2014

Perused the letter of the District Inspector of Schools, Jajpur-II, Jajpur Road, which reveals that a sum of rupees one lakh has been paid to Narendra Kumar Rout, father of the deceased Swarnalata Rout a student of class-V of Saika primary School under Kundan Grampanchayat of Jajpur district.

Thus, when the compensation amount has already been disbursed to the father of the deceased, no further action is warranted in the matter. Accordingly, further proceedings in this case stands closed.

### **Case No-2419/2011      Date: 09-07-2013**

Thirty-six petitioners, who are family pension holders of Rayagada Municipality, in their petition dated 21-10-2011 alleged about long delay in payment of revised pension/temporary increase and death-cum-retirement gratuity. According to the petition, the Executive Officer, Rayagada Municipality in his letter No.980 dated 10-3-2011 had requested the Government in H & UD Department to return the service books in original for pay fixation, but there was no response to it, for which the pay fixation process was delayed.

On notice, report was received from the Director, Municipal Administration, Odisha vide his letter No.11321/HUD dated 16-4-2012 stating that 35 numbers of original service books of the retired employees of Rayagada Municipality available in the Department have been sent to Rayagada Municipality on 19-3-2012 for fixation of pay as per H & UD Department resolution No.3183 dated 10-2-2009. Soon after receipt of the proposal from the Executive Officer, Rayagada Municipality

as per the said resolution, further steps would be taken for sanction of pension/family pension in favour of those employees.

A copy of the order was sent vide order of the Commission dated 17-4-2012 to the Executive Officer, Rayagada Municipality with a request to submit proposal to the H & UD Department as envisaged above.

After several interim reports, the Executive Officer, Rayagada Municipality vide his letter No.2598 dated 29-6-2013 has reported that family pension of all retired employees of Rayagada Municipality has been sanctioned by the Government as per eligibility and all pensioners are receiving their monthly pension regularly, though two of them are getting it as per the 4<sup>th</sup> Pay Commission due to want of service books and checking of pay fixation statement by the local fund audit, but the rest of them are getting as per the 5<sup>th</sup> Pay Commission scale.

The Commission is satisfied that the Rayagada Municipality and the State Government in the Housing & Urban Development Department have taken steps to ensure sanction of family pension as prayed for in the petition.

With a note of advice to the Executive Officer, Rayagada Municipality to complete the requisites in respect of the two family pension holders, who are getting same only at the 4<sup>th</sup> Pay Commission scale at an early date, the case is hereby closed.

### **Case No-2627/2012      Date:23-05-2013**

The complaint of Hasina Bibi, wife of convict Sk. Hyder of Special Jail, Bhubaneswar dated 2-8-2012 was about lack of regular medical check-up of health condition of her husband.

In view of the allegation, the Addl. DGP-cum-IG of Prisons & DCS, Odisha was requested vide order of the Commission dated 11-9-2012 to get the matter enquired into and submit a factual report to the Commission.



In compliance, the Addl. DGP-cum-IG of Prisons & DCS, Odisha vide his letter No.34923 dated 6-12-2012 submitted a report denying the allegation of the petitioner. He submitted a list of 16 dates between 25-8-2010 to 9-10-2012, when the said prisoner was either sent to a medical institution or doctor(s) on call came and examined the patient in jail hospital.

A copy of the report as above was sent to the petitioner vide order of the Commission dated 20-12-2012 for her information and response, pursuant to which the petitioner made a submission dated 1-2-2013. Her main allegation in the response was non-production of her husband at the medical institution on ground of non-availability of escort party. She also alleged that since 9-10-2012 till the date of her submission, her husband has not been taken to any medical institution which implies negligence on the part of the jail authorities.

Commenting on the said allegation, the Addl. DGP-cum-IG of Prisons & DCS, Odisha vide his letter No.13135 dated 25-4-2013 has submitted a report of Superintendent, Special Jail, Bhubaneswar who enquired into the matter. As per the report, on 9-10-2012 the convict patient was taken to SCB Medical College & Hospital, Cuttack for his check-up in Plastic Surgery Department, Orthopaedic Department, Urology Department and Nephrology Department. Again on 22-1-2013, he was taken to the same institution in the Urology Department, Neurology Department and Radiology Department. Further, on 12-3-2013 he was again taken to SCB Medical College & Hospital for check-up/treatment in Plastic Surgery Department, Urology Department, Surgery Department, Orthopaedic Department, Neurology Department and Radiology Department. It is, however, admitted that on 21-1-2011 he could not be taken to Department of Urology, Orthopaedic and Gastroenterology of SCB Medical College & Hospital because of non-availability of escort, but this was managed by a team of doctors in the jail hospital

including Orthopaedic and Surgery Specialists of the Capital Hospital.

In view of the above, the Commission does not feel any necessity of continuing the enquiry. With a note of advice to the Addl. DGP-cum-IG of Prisons & DCS, Odisha to continue providing adequate medical care as and when required, the case is hereby closed.

**Case No-3688/2012      Date: 31-05-2013**

This complaint came from Bibek Mohanty lodged in Choudwar central Jail as an UTP in Purighat PS case No.113 dated 27-10-2012 u/s 399/402 IPC. His complaint was that he was falsely implicated and was brutally assaulted by ASI Jitendra Nath Sethi and OIC Debendra Mallick, for which two of his teeth got broken. He further reports that he was arrested on 27-10-2012 and because of the injury, he was stealthily kept in a private nursing home and was forwarded to the Court on 4-11-2012.

On being noticed, the Deputy Commissioner of Police, Cuttack vide his letter No.245/DHRPC dated 29-1-2013 submitted a report of ACP, Zone-VI, Cuttack who enquired into the matter. It was stated in the enquiry report that despite sincere effort to liaise with the complainant Bibek Mohanty, he failed to contact him and the entire enquiry has been conducted without examining him.

The Commission was not satisfied with the report. When it was known that the petitioner is an UTP in Choudwar Central Jail, the Commission did not understand why it was so difficult for the enquiring officer to contact him and examine him. Moreover, from the medical report submitted by the Jail Medical Officer, Circle Jail, Cuttack, it was seen that the complainant had taken medicines for his dental pain on 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup>, 13<sup>th</sup>, 15<sup>th</sup> & 20<sup>th</sup> of November, 2012.

In this background, the Commission desired to have a detailed enquiry to be conducted by its own Investigation Wing into the allegations made by the complainant. The Addl. DGP-cum-Director, Investigation, OHRC



was requested to assign investigation into this case to one of the officers under his control, who should enquire into the matter by examining the complainant and others involved including the concerned police officials and submit report to the Commission.

In compliance, the Director, Investigation, OHRC vide his letter No.6610 dated 26-4-2013 has submitted the report of DySP P.K. Tripathy who enquired into the matter.

DySP P.K. Tripathy, OHRC appeared before the Commission and made a presentation of his report. From the report of DySP Tripathy and his presentation, it is noted that the petitioner was forwarded to Court custody in Purighat PS case No.113 dated 27-10-2012 u/s 399/402 IPC/25 Arms Act. However, he was released on bail on 7-1-2013 as per of the order of the Hon'ble High Court vide BLAPL No.30455/2012. After being released on bail, the petitioner never attended the Court, for which NBW has been issued against him on 8-2-2013 for his appearance in the Court. It is also noted that the petitioner Bibek Mohanty in his petition has given his address as village Kankadadiha, PS - Begunia, Dist.-Nayagarh, while it is a known fact that the Begunia PS is not under the Nayagarh district and there is no village like Kankadadiha under the Begunia PS limits.

Since the petitioner has signed in English, it is highly unlikely that he does not know to which district he belongs. Evidently, he has not given his proper identity and, therefore, it was not possible for DySP Tripathy to contact him.

In view of the above, the Commission does not consider it necessary to continue further with the enquiry. The case is hereby closed.

**Case No-12/2013**                      **Date: 06-05-2013**

News items under caption "GRUHA RAKHINKA LATHI MADARE DOKANI LALULUHANA" published in the daily 'SAMAJ' and under caption "POLICE RA NIRGHATA

MADARE HOTEL MALIKA GURUTARA" published in the daily 'SAMBAD' on 28-12-2012 revealed that on 25-12-2012 at around 10:45 pm when the Restaurant 'Khana Khajana' at Mochi Sahi Chowk of Puri town was about to close, a PCR van from the Town PS arrived there and the Home Guard driver Manas Barik severely assaulted the Restaurant owner Sudarsan Lenka with a lathi. The cause of the action is said to be his anger due to refusal of the restaurant owner giving him free 'biryani' two days before.

Since the news items revealed an incidence of violation of human rights, the Commission vide its order dated 29-12-2012 took cognizance of the matter suo-motu and called upon the Superintendent of Police, Puri with a request to get the matter enquired into and submit report to the Commission.

In compliance, report has been received from the Superintendent of Police, Puri vide his letter No.600/DHRPC dated 20-2-2013. It is stated in the report that the matter has since been enquired into by IIC, Town PS and during enquiry it was ascertained that in this regard Town PS case No.190 dated 26-12-2012 was registered u/s 341/294/323 IPC and charge-sheet has been submitted on 2-2-2013 against the accused Home Guard Manas Barik.

Since the case has already been charge-sheeted and presently subjudice, the Commission hereby closes its enquiry under Regulation 10(i) of the Odisha Human Rights Commission (Procedure) Regulations, 2003.

However, since the allegation of restaurant owner Sudarsan Lenka having been assaulted by a public authority on 25-12-2012 is found to be true, the Commission awarded a compensation of Rs.30,000/- in favour of the victim Sudarsan Lenka under section 18(a) of the Protection of Human Rights Act, 1993.

A copy of this order was sent to the Principal Secretary to Government, Home Department with a request to take steps for payment of the above compensation amount



to the victim and report compliance to the Commission in four weeks' time.

### Compliance by the Public Authorities

Date: 21-10-2013

In compliance to the order of the Commission dated 25-6-2013, the Spl. DG of Police (HdQRS), Odisha vide his memo No.5428 dated 1-10-2013 has reported that the compensation of Rs.30,000/- has been disbursed to the victim Sudarsan Lenka. A copy of the stamped money receipt as proof thereof has been enclosed.

Since the compensation amount has already been disbursed to the victim, the Commission does not consider it necessary to continue further with the enquiry. The case is, therefore, closed.

### Case No-1916/2012 Date: 27-11-2012

Gouranga Majhi of village Dundelmal under the Junagarh PS of Kalahandi district in his petition dated 20-6-2012 alleged that in the night of 8-6-2012 the ASHA Karmi of her village refused to come to help in the delivery of her wife Jeeradei. She also refused to give the petitioner the vehicle number of Janani Suraksha Express, rather she demanded Rs.2000/- for doing the needful. Finding no other way, the petitioner called the local 'Dhai' to assist his wife in smooth delivery of child. Although his wife survived, the child died.

On being noticed, the Chief District Medical Officer, Kalahandi vide his letter No.1815/DPMU dated 22-10-2012 submitted a report of ADMO(FW), who enquired into the matter. According to the enquiry report, Jeeradei Majhi, wife of Gouranga Majhi was in labour on 8-6-2012 at 11 pm, for which Gouranga Majhi sent his nephew to the local ASHA Urmila Sahu. Urmila Sahu denied to go to his house at night. She contacted over phone the driver of Janani Express, who said that he can go to village Dundelmal only after half an hour. Since Janani Express driver could not have come immediately, ASHA proposed

Gouranga Majhi to arrange one private vehicle which will cost around Rs.2000/-. After sometime, when Janani Express driver started to go to Dundelmal, he contacted over phone and came to know that by then she had delivered a dead baby at home in presence of two untrained old ladies.

The ADMO(FW) has concluded in his enquiry that the ASHA Karmi did not go to the house of the patient at night nor in the morning. She did not contact MO I/C or BPO when Janani Express could not come in time. Thus, there was severe negligence in duty.

Since negligence in providing medical care is admitted in the report, the Commission awarded a compensation of Rs.40,000/- in favour of patient Jeeradei Majhi, wife of Gouranga Majhi. The Chief District Medical Officer, Kalahandi should also initiate necessary departmental action against the erring ASHA for her lapse after giving her an opportunity of being heard.

A copy of this order be sent to the Commissioner-cum-Secretary to Government, Health & Family Welfare Department with a request to arrange payment of the compensation amount as above and report compliance to the Commission in four weeks' time.

### Compliance by the Public Authorities

Date: 02-08-2013

In compliance to the order of the Commission dated 11-3-2013, the Collector, Kalahandi vide his letter No.1276/Judl dated 29-6-2013 has reported that the compensation amount of Rs.40,000/- out of CMRF has been paid to the victim Smt. Jeeradei Majhi on 10-5-2013. A copy of the stamped money receipt has been enclosed as proof thereof.

Since the compensation amount has already been disbursed to the victim, the Commission does not consider it necessary to continue further with the enquiry. The case is, therefore, closed.



**Case No-1568/2011      Date: 11-07-2013**

Draupadi Sahu, President, Mahila Mandal, Rajjharan in her petition dated 15.07.2011 alleged torture and assault on them by the police on 12.07.2011 at the behest of companies like Jindal Steel & Power Ltd., Monnet Power and Utkal Coal Ltd., who were planning to acquire their land to mine coal and establish projects.

The Commission got the allegations enquired into by the Director Investigation of the Commission.

From the report of Director Investigation submitted on 25<sup>th</sup> March 2013, the Commission notes the following:

- (a) On 12.07.2011 company personnel of Jindal Steel & Power Ltd. and Monnet Power Ltd. had gone to village Golagadia under Industrial PS Nisha limits to meet the villagers as per their request. There they were detained by the villagers of Rajjharan and taken to the Bhagabat Ghar where they were further detained for a prolonged period making some demands.
- (b) In the same evening, IIC Industrial PS Nisha under supervision of SDPO, Angul and Executive Magistrate in-charge, law & order tried to rescue the detained company personnel, which led to confrontation between the police and the agitators. During such confrontation, the agitators turned to a mob and pelted stones and attacked the police personnel. Police used tear smoke on orders of Executive Magistrate and used minimum force to disperse the mob.

While use of force could be justified looking at the situation, it is also reported by the Director Investigation that some of the innocent persons have been entangled and implicated in four cases vide Industrial PS Nisha Case no.113/2011, 114/2011, 115/2011 & 116/2011.

The details reported are as follows;

- (i) Aparna Naik (38) is a physically handicapped unmarried woman moving in tri-cycle due to her handicap. On 12.07.2011, when Draupadi Sahu and other villagers had detained the company personnel near Bhagabat Ghar, she had gone to see the place out of curiosity as to what was happening as her house was adjacent to the spot. The police has unfortunately implicated her in one of the cases. The Director Investigation has verified the statement of Aparna Naik by those of the village Sarpanch Patitapaban Dehury and Draupadi Sahu who confirmed non-involvement of Aparna Naik in the incident.
- (ii) Sumitra Sahu (24) who had given birth to a female child at Kalinga Nursing Home, Angul on 09.07.2011 only (just three days prior to the incident), was physically too weak to participate in such activity. Moreover, Hindu women at such stage do not go to the Bhagabat Ghar. But the company officers gave her name and her husband Susil Kumar Sahu's name in the FIR in order to harass her because she was an active member of Rajjharan Mahila Mandal. The local gentries including the village Sarpanch Patitapaban Dehury have supported her version. Even the photographs taken during the mob violence, no where show her or her husband.
- (iii) Hrusikesh Sahu, who happens to be son of a person who had received compensation from the companies, was prosecuting his studies in Fitter Trade in the ITI Managed by JSPL. He had to write ITI examination on 22.07.2011. Unfortunately, he was arrested by the police and could not write ITI examination and lost one year due to police action. Since he was a beneficiary, it is highly unlikely that he would involve in violence against the company officials.



(iv) Duryodhan Pradhan (36), who runs a grocery shop few yards from the Bhagabat Ghar has also been booked though he never gheraoed company personnel nor assaulted the police personnel. He had gone to the Bhagabat Ghar to see as to what was happening. In fact, in the evening of 12.07.2011, when he returned home from his grocery shop, he found one woman constable namely Rita Nayak having taken shelter in his house to save her life from the violence. At his house, her wife gave one saree, blouse etc. to the said constable Rita Nayak for the purpose of concealing her identity, so that the villagers would not get an opportunity to assault her. After the violence subsided, he took the woman constable Rita Nayak to the police station and left her there safely.

Since use of force on the part of the police was taken recourse to because of the law and order situation, the Commission is not inclined to find fault with any of them. However, the police has to bear in mind that while booking cases, they should be selective, so that the innocent persons are not made to suffer.

A copy of the report of the Director Investigation along with the enclosures be sent to the Superintendent of Police, Angul to ensure proper supervision of Industrial PS Nisha case no.113/2011, 114/2011, 115/2011 and 116/2011, particularly with reference to the innocent persons cited in the report and conclude the investigation accordingly.

An extract of this order pertaining to the help rendered by Duryodhan Pradhan and his wife to protect the woman constable Rita Nayak was sent to Secretary, OHRC for record and for considering Duryodhan Pradhan and his wife as possible candidates for Human Rights Award in the next occasion.

The Superintendent of Police, Angul was requested to submit an action taken report in the matter in four weeks time.

The Commission vide its order dated 11-7-2013 has already given its findings and has asked the Superintendent of Police, Angul to do the needful in the matter. The Commission has also asked its Secretary to consider Duryodhan Pradhan and his wife as possible candidates for the human rights award in the next occasion.

Since orders in the matter have already been issued as above, the Commission does not consider it necessary to continue further with the enquiry. The case is, therefore, closed.

### Compliance

Sri Duryodhan Pradhan and his wife Smt. Sinarani Pradhan were awarded the "Human Rights Award" by His Excellency the Governor of Odisha, on the occasion of observance of World Human Rights Day on 10.12.2014 by the OHRC.

### **Case No.668/2011**

**Date: 24-10-2011**

Petitioner Jhumuri Munda of village Garadbahal under the Harichandanpur PS of Keonjhar district along with her Advocate Biswapriya Kanungo appeared before the Commission on 29-3-2011 and submitted a petition stating that on 8-3-2011 while the petitioner was sitting on a cot lying in the courtyard of her house and was combing her hair, the Gorkha police (meaning thereby SOGs) walked through the street. The petitioner's neighbour reprimanded her as to why she was sitting alone in the courtyard of the house. She accordingly went inside her house and locked it. At this time, SOGs knocked at the door and when it was not opened, they broke it open and attempted to commit rape on her, but failed and then shot at her which hit her on the left foot. Thereafter, they brought her out of the house when she was bleeding and bandaged her injury. At that time her parents came and SOGs took them and the petitioner to Harichandanpur PS, detained them for about four hours and took their thumb impressions on blank papers. They



threatened the petitioner not to go to the medical for treatment.

On being noticed, the Superintendent of Police, Keonjhar has submitted a report vide his letter No.285/DHRPC dated 16-4-2011 enclosing a report of SDPO, Ghatagaon who enquired into the matter. It is stated in the report that as per intelligence input, anti-Naxalite patrolling was intensified in the area covering villages Garadbahal, Badapalaspal and Khedapada. On 8-3-2011 at about 9 a.m. the patrolling party found four unidentified person suspected to be the members of CPI(Maoist) organisation and moving near the house of Dulal Munda, father of the petitioner. Seeing the patrolling party, two of them fled away in a motorcycle and another two entered into the house of Dulal Munda and the petitioner too entered inside her house. Suspecting them to be Maoist, the patrolling team wanted to search the house of the petitioner calling the local villagers, but none of the villagers came to the house, rather they ran away suspecting the police team as Maoists. During search the police party noticed the petitioner concealed herself behind a small partition wall in the darkness. Some members of the patrolling team tried to jump the partition wall to verify her activity and while jumping the wall, all of a sudden one round ammunition fired accidentally which hit near the little finger of her left foot. The patrolling party got the identification and being satisfied that the petitioner is not a member of CPI(Maoist), immediately shifted her seeing the oozing of blood from the foot to CHC, Harichandanpur along with her parents. After treatment she was sent back to the village with her parents by a vehicle. During enquiry, neither the petitioner nor her parents alleged of assault or any type of misbehaviour to the petitioner. However, explanation was called for from the team leader of the SOG unit and he has been warned not to repeat such type of incident in future.

Responding to the report of the SP, Keonjhar as above, the Advocate for the

petitioner has filed his response on 27-7-2011 disputing the statement of the police that it was an accidental firing and claiming that the firing was intended to kill the petitioner after having failed to commit rape on her. There is, however, nothing in the facts and circumstances of the case that support any attempt to rape her nor the contention that the firing was made at the petitioner to kill her.

However, even if the assertion of firing being an accidental one is accepted, still it connotes gross negligence on the part of the concerned member of the police team. A man with a fatal weapon has to be extremely conscious against such accidental firing because the same can easily kill somebody. It is also admitted that the petitioner was not associated with any Naxalite movement and, therefore, she has suffered for none of her fault even if the injury may not be a major one.

Considering the trauma that a girl will undergo being searched in darkness and being fired at from close quarters, the Commission was of the opinion that it is a fit case for compensation under the Protection of Human Rights Act, 1993. The Commission, accordingly, recommended payment of Rs.35,000/- for compensation in favour of the petitioner Jhumuri Munda.

A copy of this order was sent to the Principal Secretary to Government, Home Department with a request to sanction and disburse the amount as above and report compliance to the Commission in six weeks' time.

### Compliance by the Public Authorities

Date:13-03-2012

The Commission in its order dated 24-10-2011 held that there was gross negligence on the part of the concerned member of the police team, for which petitioner suffered for none of her fault and accordingly awarded compensation of rupees 35,000/- in her favour.



From the memo no.514 dated 03-02-2012 of the Addl. D.G. of Police, HRPC, Odisha, Cuttack, it appears that the said amount has been paid to the petitioner.

Since, the order has been complied with, this case stands closed.

**Case No-1804/2012 Date: 19-11-2012**

Petitioner Sudhakar Senapati in his complaint dated 29-5-2012 submitted a press clipping from the daily 'SAMAJ' dated 24-5-2012 reporting brutal murder of one Bharati Hansda (35) by one Dhanua Hansda on suspicion of witchcraft in village Bandania under the Kankadahad block of Kamakhyanagar.

On being noticed, the Superintendent of Police, Dhenkanal vide his letter No.2651/HRPC dated 27-8-2012 submitted a report stating that it is a true case u/s 342/302/34 IPC.

According to the report above, the younger brother of the accused persons Dhanuram Hansda died due to prolonged ailment and the accused persons namely Dhanuram Hansda, Durga Hansda and Ladhara Kisku thought that it was due to witchcraft done by the deceased Bharati Hansda. They demanded that she must revive the dead patient and when she pleaded her innocence, they killed her brutally.

The Commission has been expressing its concern against atrocity driven by superstition and blind belief which can lead to dangerous violation of human rights and accordingly circular has been issued by the DG & IG of Police, Odisha to all the field officers to guard against such atrocities and take firm action.

Since the deceased Bharati Hansda fell a victim to atrocity caused due to superstitious beliefs, the society as a whole owes to her. The Commission awarded a relief of Rs.1,00,000/- (one lakh) under section 18 of the Protection of Human Rights Act, 1993 to be disbursed to the NOK of the victim.

A copy of this order was sent to the Principal Secretary to Government, Home

Department with a request to arrange payment of Rs.1 lakh in favour of the NOK of the victim Bharati Hansda and report compliance to the Commission in four weeks' time.

### Compliance by the Public Authorities

Dated 07-02-2014

Seen the report of the Government in the Home Department which shows that pursuant to the direction of this Commission dated 19-11-2012 compensation amounting to rupees one lakh has been paid to Shri Dulal Hansda, the next of kins of the deceased Bharati Hansda of Bandania under Kankadahada Block of Kamakhyanagar. The photo copy of the receipt showing payment of compensation amount of rupees one lakh vide UCO Bank cheque No.557335 has been furnished for perusal by this Commission.

Thus, when the orders of this Commission has been complied to the fullest extent, the proceedings of the case stands closed.

**Case No-2412/2012 Date: 06-06-2013**

Petitioner Jhunubala Swain in her complaint dated 24-7-2012 alleged that her husband, who is a low paid employee of Jatni NAC, has not been getting his salary for the last 20 months because of grudge on the part of NAC authorities on him.

Since denial of salary for such a long period affects the right to life of the members of a family dependant on such salary, the Executive Officer, Jatni NAC was asked by the Commission vide its order dated 6-8-2012 to submit a factual report to the Commission, in compliance to which report was received from the Executive Officer vide his letter No.2822 dated 11-10-2012.

A copy of the report was sent to the petitioner for her information and response. She responded to the same vide her submission dated 20-10-2012 practically reiterating her grievance. On perusal of the report of the Executive Officer, it was noted that petitioner's husband Braja Kishore Swain, who



is an OTC, is rather irregular in his work availing frequent leave and having a bad record of service. Without obtaining prior permission, he had proceeded to Khallikote in order to take care of his father on 4-12-2010 and on return to headquarters in a month's time, did not submit the joining report in due procedure. The medical certificate which he produced was hard to be believed. Since then neither his joining report has been accepted nor his salary has been paid.

Since admittedly Braja Kishore Swain remained absent for taking care of his father and the absence was not for a very long period, the Commission did not see any necessity of insisting on a medical certificate for allowing him to join his duty.

On being asked to clarify the matter further, the Executive Officer had made another submission on 14-2-2013 stating that, though his joining report was not accepted, he was signing in the office register with a malafide intention.

An office register is a public document which prima facie supports attendance of an employee. It was not clear as to why and how he was allowed to sign in the register, if he was not working in the Municipality during this period.

Sri S.K. Patnaik, present Executive Officer, Jatni NAC appeared before the Commission on 5-4-2013 along with his advocate and on interaction with him, the Commission did not find any sound reason supporting non-acceptance of the joining report of the petitioner's husband and keeping him deprived of his salary for such a long period.

The right course of action on the part of a public office against an unruly employee is to take recourse to disciplinary proceeding which is a constitutional way of dealing with such matters. The action on the part of the NAC authorities in denying joining of the petitioner's husband on the ground that he was unauthorisedly absent for a month and

did not submit a proper medical certificate is not acceptable.

The Executive Officer, Jatni NAC was directed to allow Braja Kishore Swain to join in his work forthwith and pay his salary and report compliance to the Commission.

#### Compliance by the Public Authorities

Dated 06-06-2013.

In compliance, the Executive Officer, Municipal Council, Jatni vide his letter No.1897/Jatni dated 4-6-2013 has reported that Braja Kishore Swain (husband of the petitioner) has joined in duty on 22-4-2012 and since then he has been performing his duty assigned to him. His monthly salary has been transferred to his account.

In view of the above, the Commission does not consider it necessary to continue further with the enquiry. The case is, therefore, closed.

**Case No-1984/2012      Date: 11-09-2012**

Petitioner Srinibas Rao of Durgapuri Sahi, Malkangiri in his petition dated 5-6-2012 stated that his only son P. Siba Rao, who was a class-VIII student in the local primary school, was used by the Headmaster on 23-11-2011 in breaking of an old wall. The said wall fell over him and he died.

On perusal of the enclosures, the Commission noted letter No.133/HRPC of SP, Malkangiri dated 5-2-2011 in which it is stated that Malkangiri PS case No.141 dated 23-11-2011 was registered against the accused Headmaster and the case has been charge-sheeted on 7-12-2012 u/s 288/338/304(A) IPC/ 14 of the Child Labour (Prohibition & Regulation) Act, 1986 and the case is presently subjudice.

The Commission vide its order dated 26-6-2012 requested the Collector, Malkangiri to report whether the said school was a Government school and whether any compensation/ex-gratia has been paid to the family of the victim.



In compliance, report has been received from the District Project Coordinator, SSA, Malkangiri vide his letter No.4247 dated 10-8-2012 stating that it is a Government school and that no compensation/ex-gratia has been paid to the family of the victim. It is also stated in the report that in the meanwhile the final judgment has been passed by the Court of learned SDJM, Malkangiri on the above case on 9-3-201 and as per the judgment the said Headmaster, Malkangiri is not found guilty. It is also reported that some students of class-VIII were playing inside the school premises of the Ex-Board UP School, Malkangiri during school hour when the classes were suspended due to half yearly examination of class-I to class-VII. When the students were playing inside the school, an old and dilapidated wall fell down on the students named P. Siba and P. Satya, as a result of which P. Siba succumbed to the injury.

Since the accident was caused due to collapse of a school wall on a student, irrespective of whether the incident took place while the children were playing inside the school premises or the student was working on the wall at the instance of the Headmaster as alleged, the deceased deserves to be compensated for negligence on the part of the Government school and expose them to the hazard of a wall that was likely to collapse. The Commission, therefore, awarded a compensation of Rs.1,00,000/- in this case under section 18(a)(i) of the Protection of Human Rights act, 1993.

A copy of this order was sent to the Commissioner-cum-Secretary to Government, School & Mass Education Department with a request to arrange to pay the aforesaid amount to the next of kins of the deceased P. Siba and report compliance to the Commission in four weeks' time.

#### **Compliance by the Public Authorities**

Dated 11-04-2013

In compliance to the order of the Commission dated 18-2-2013, report has been

received from the District Inspector of Schools, Malkangiri-II vide his letter No.518 dated 26-2-2013 stating that the compensation amount of Rs.1 lakh has been paid to the NOK of the deceased P. Siba Rao.

Since the compensation amount has already been disbursed to the NOK of the deceased, the Commission does not consider it necessary to continue further with the enquiry. The case is, therefore, closed.

**Case No-3314/2012      Date: 06-03-2012**

Rabi Mallick, MLA, Kakatpur appeared before the Commission on 1-11-2012 and submitted a complaint alleging that IIC Prakash Kumar Rath of Konark PS demanded Rs.5000/- from a scrap dealer Giridhari Lenka of village Dalimbagoradi towards Durga Puja 'chanda' and since Giridhari Lenka expressed his inability to pay that sum and instead paid only Rs.1000/-, the IIC misbehaved with Giridhari Lenka, arrested him on false ground and put him in the police hazat, where he was physically and mentally tortured. The family members of Giridhari Lenka approached the petitioner. The SDPO, Nimapara was approached in the matter from the petitioner side, who instructed the IIC to take appropriate action according to law. When the IIC knew about this, he became more vindictive and demanded Rs.20,000/-, which the family members of the victim were forced to pay.

Since the allegation was of very serious nature, the Commission got it enquired into by its own Investigation Wing. Inspector Pravakar Swain, attached to the Commission, investigated the case and submitted his report vide his letter dated 7-2-2013. The report was presented before the Commission on 26-2-2013.

During investigation, Inspector Pravakar Swain examined the petitioner Rabi Mallick, victim Giridhari Lenka, his younger brother Jagannath Lenka and the other family members, one Deba Prasad Behura (owner of the premises, where the victim Giridhari Lenka



runs his scrap godown) and several others of Konark bazaar area and police officials Sashi Sekhar Mohapatra, SDPO, Nimapara and Prakash Kumar Rath, the then IIC, Konark PS.

Inspector Prakash Kumar Rath, in his statement made before Inspector Pravakar Swain, stated that on 22-10-2012 night he along with ASI B.M. Nayak, constable P.K. Ray, Home Guard Pradyumna Swain and Home Guard driver P.K. Dash were performing night patrolling, when he received credible information that Giridhari Lenka is in possession of stolen plastic pipes in his scrap shop at village Dalimbagoradi. On receipt of such information, he along with the patrolling staff conducted a raid on the scrap shop and found five used engines (three scooter engines, one motorcycle engine and one auto-rickshaw engine). The shop owner, though claimed that he had purchased the above scrap materials, could not produce any document in support of the same. Therefore, the materials were seized right at the spot and brought to the police station along with the owner of the scrap shop, who was detained in the PS with a direction to his brother Jagannath Lenka to produce original RC books in support of the seized engines. The next day Jagannath Lenka appeared at PS at 11:20 am with Deba Prasad Behura and produced the original RC books in favour of four of the engines. During verification, the engine numbers tallied. Still he was not able to produce document in support of the fifth engine and assured to produce the same after collecting the same from its owner. Therefore, he released suspect Giridhari Lenka on PR bond with Deba Prasad Behura as the surety. Later, on 27-10-2012 a receipt was produced from one Sayeed Abdul Bari regarding the fifth engine and all the seized engines were returned to the zima of Giridhari Lenka after executing due zimanama. He denied the complaint of Rabi Mallick, MLA, Kakatpur as baseless and built on concocted stories purely designed to achieve political success at the cost of dignity of the IIC.

As per the finding in the enquiry report of Inspector Pravakar Swain, the IIC, Konark PS, being irritated because of non-compliance of scrap dealer Giridhari Lenka in the matter of fulfilling his demand of Dussera 'chanda', conducted a raid in his godown on 22-10-2012 and seized five used engines suspecting them to be stolen properties. He severely assaulted Giridhari Lenka on the spot and took him to the police station and put him in the police hazat, where he was further tortured and threatened. Being apprehensive, the family members of Giridhari Lenka collected Rs.18,000/- and paid the same to the IIC through Deba Prasad Behura (the landlord). On receipt of the money, the IIC released Giridhari Lenka from police hazat and returned the seized engines.

On going through the complaint, reports and statements, the Commission vide its order dated 26-2-2013 observed that there appears to be violation of human rights of Giridhari Lenka and requested the Superintendent of Police, Puri to direct Inspector Prakash Kumar Rath and the officials, who accompanied him to raid the scrap godown, to appear before the Commission in person on 6-3-2013.

Accordingly, Inspector Prakash Kumar Rath, ASI B.M. Nayak, constable P.K. Ray, Home Guard Pradyumna Swain and Home Guard driver P.K. Dash appeared before the Commission and were examined individually by the Commission on oath.

All of them excepting Home Guard Pradyumna Swain stated that the group as a whole started for patrolling duty from the police station in the police jeep at around 12 midnight, whereas Home Guard Pradyumna Kumar Swain stated that he was doing patrolling with his bicycle along with two other Home Guards, when the group led by the IIC, after getting a phone call, collected him on the way and drove to the scrap shop.

Further, the Home Guard driver P.K. Dash and constable P.K. Ray stated that the shop was open by the time they arrived there,



whereas the Inspector Prakash Kumar Rath and ASI B.M. Nayak made it clear that the shop was closed, for which they had to knock at the door and call the owner to get it open.

Besides the above discrepancies, on being enquired about the source of information, Inspector Prakash Kumar Rath stated that he got a call at about 1:30 am (23-10-2012) reporting stolen pipe having been kept at the scrap shop. When asked about the identity of the caller, he said that it was from an unknown number and he even could not produce the said number.

The version of Inspector Prakash Kumar Rath that the raid was not pre-planned and it was just consequent to his getting a call about presence of stolen material in the scrap shop, sounds unbelievable as he is not able to produce the number of the caller, which is usually recorded in the mobile.

There are several other lacunae in the entire procedure followed by Inspector Prakash Kumar Rath. First of all, the Commission does not appreciate somebody being detained in the police station without a formal arrest. Moreover, after having been detained overnight in the police station, he is released without a medical examination. Evidently, Inspector Prakash Kumar Rath was not serious about the case and it was only a crude demonstration of authority which corroborates the allegation.

In view of the above, the Commission is inclined to hold that Inspector Prakash Kumar Rath intentionally planned a raid of the scrap godown of Giridhari Lenka in order to harass him with ulterior motive. As the human rights of the victim Giridhari Lenka stand violated, the Commission awarded compensation of Rs.60,000/- (sixty thousand rupees) in favour of victim Giridhari Lenka under section 18(a) of the Protection of Human Rights Act, 1993.

A copy of this order was sent to the Principal Secretary to Government, Home Department with a request to arrange payment of the above compensation amount in favour of the victim Giridhari Lenka and report

compliance to the Commission in four weeks' time. He was also requested to take action, as deemed proper, against Inspector Prakash Kumar Rath.

### Compliance by the Public Authorities

Date: 06-08-2013

In compliance to the order of the Commission dated 6-3-2013, the State Government in the Home Department conveyed sanction of Rs.60,000/- towards payment of compensation to the victim Giridhari Lenka and the DG & IG of Police, Odisha was requested to draw the amount and disburse the same. He was also requested to initiate disciplinary proceeding against Inspector Prakash Kumar Rath.

The DG & IG of Police, Odisha vide his letter No.4085 dated 3-8-2013 has reported that the compensation amount of Rs.60,000/- has been disbursed to the victim Giridhari Lenka and a copy of the stamped money receipt as proof thereof has been enclosed.

Since the compensation amount has already been disbursed to the victim, the Commission does not consider it necessary to continue further with the enquiry.

With a note of advice to the DG & IG of Police, Odisha to take appropriate disciplinary action against the delinquent officer as per the above order of the Commission, the case is hereby closed.

**Case No-2770/2012**      **Date: 03-12-2012**

Pramila Mallik, President and several members of Biju Mahila Janata Dal appeared before the Commission with a petition on 7-9-2012 alleging that during the rally organised by the Odisha Pradesh Congress on 6-9-2012, several Congress workers took recourse to violent activities and did not even spare assaulting ruthlessly a lady constable named Pramila Padhy. It was alleged that some of them were under intoxication and the victim Pramila Padhy, being severely injured, had to be admitted in the Ayush Hospital for her treatment.



In view of the allegation as above, the Commission vide its order dated 7-9-2012 sent a copy of the petition to the Deputy Commissioner of Police, Bhubaneswar to submit a factual report in the matter.

In compliance, the Deputy Commissioner of Police, Bhubaneswar vide his letter No.3831/DHRPC dated 3-12-2012 submitted a report of ACP, Zone-I who enquired into the matter. It is stated, inter alia, in the report that the lady constable Pramila Padhy of Infocity PS was detailed for duty on 6-9-2012 near barricade No.1 at lower PMG along with other constables and officers for the purpose of crowd control during the rally of the Odisha Pradesh Congress. Being instigated by the leaders, the supporters of Congress armed with lathi, iron rod and other lethal weapons marched towards barricade No.1 and tried to enter into the prohibited area. In spite of repeated persuasions, warning and directions, they grew more violent and attacked police personnel by pelting stones, lathis and iron rods. At that time about 30 to 40 errant Congress workers under influence of alcohol assaulted her at different parts of her body by means of lathi and other weapons. They also outraged her modesty by inserting their hands inside her body protector. One of them also intentionally assaulted to her private part by means of a bamboo. She was taken to Capital Hospital by police personnel and then shifted to Ayush Hospital for her better treatment. She was found to have received 13 simple and grievous injuries on her head and different parts of her body. Based on her report, Capital PS case No.340 dated 7-9-2012 under sections 147/148/341/294/323/336/353/354/506/149 IPC/7 CrI. LA Act has been registered and under investigation. In this connection, 38 accused persons have been arrested and forwarded to court.

The report above reveals outrageous violation of human rights of a woman, who suffered indignity and assault, while doing her legitimate duty. While the Deputy Commissioner of Police, Bhubaneswar would ensure

appropriate investigation into the Capital PS case No.340/2012, he shall also take care of medical care and treatment of victim Pramila Padhy.

Under section 18 of the Protection of Human Rights Act, 1993, the Commission awarded a cash relief of Rs.50,000/- in favour of victim Pramila Padhy in addition to the cost incurred at the hospitals for her treatment.

A copy of this order was sent to the Principal Secretary to Government, Home Department with a request to arrange payment of the above cash relief of Rs.50,000/- in favour of victim Pramila Padhy and report compliance to the Commission in four weeks' time.

#### Compliance by the Public Authorities

Date:20-05-2013

In compliance to the order of the Commission dated 1-2-2013, the Home Department vide its letter No.14467/C&HR dated 11-4-2013 has reported that the compensation amount of Rs.50,000/- has been paid to the victim lady constable Pramila Padhy and has submitted a copy of the stamped money receipt as proof thereof.

Since the compensation amount has already been paid to the victim, the Commission does not consider it necessary to continue further with the enquiry. The case is, therefore, closed.

#### Case No-3811/2012      Date: 08-04-2013

Santosh Kumar Biswal of Sahaberini under the Parjang PS limits of Dhenkanal district in his petition dated 21-12-2012 alleged that his wife Jagnyaseni Sahu, working as a lady constable under the Titilagarh GRPS, was assaulted, molested and abused in filthy language by Havildar Tankadhar Sahu and constable S.K. Saraf. He further complained that when they lodged a complaint, there was pressure on them from other staff to withdraw the complaint and, instead, there was a false counter case registered against his wife.



On notice, report has been received from the Superintendent of Police, Railways, Rourkela vide his letter No.848/DCRB dated 2-3-2013. It is stated in the report that on 11-11-2011 C/126 J. Sahoo (wife of the petitioner) brought an unclaimed bag and kept it in a tea stall. This was questioned by the Hav. T.D. Sahoo and it led to exchange of hot words between the two. At that time C/102 S.K. Saraf, who was on duty, started chasing constable J. Sahoo and there was confrontation between J. Sahoo and S.K. Saraf. Both of them used vulgar languages in loud voice which drew attention of the general public and passengers. Consequently, Sambalpur GRPS case No.60 dated 11-11-2011 has been registered u/s 354/294/506 IPC against constable S.K. Saraf and a counter case vide Sambalpur GRPS case No.61 dated 11-11-2011 has been registered u/s 294/506 IPC. Both the cases have been charge-sheeted and are subjudice.

Since both the cases are subjudice, the Commission would be inclined to close its enquiry in accordance with Regulation 10(i) of the Odisha Human Rights Commission (Procedure) regulations, 2003.

However, from the fact that Sambalpur GRPS case No.60/2011 has been charge-sheeted under sections 354/294/506 IPC, the criminal assault on the woman constable J. Sahoo with intent to outrage her modesty seems prima facie established.

Under whatever provocation, assault on the part of a police official against his female counterpart with intent to outrage her modesty is highly deplorable and can never be justified.

Notwithstanding the fact that the said woman constable J. Sahoo has also been charge-sheeted (u/s 294/506 IPC), the Commission is of the view that her human rights have been violated by a police official and, therefore, the Commission awarded a compensation of Rs.30,000/- in her favour u/s 18(a) of the Protection of Human Rights Act, 1993.

### Compliance by the Public Authorities

Date: 16-09-2013

In compliance to the order of the Commission dated 18-7-2013, the Spl. DG of Police (Hdqrs), Odisha vide his memo No.3295 dated 17-7-2013 has reported that the compensation amount of Rs.30,000/- has been paid to the victim woman Constable J. Sahoo and a copy of the stamped money receipt as proof thereof has been enclosed.

Since the compensation amount has been disbursed to the victim, the Commission does not consider it necessary to continue further with the enquiry. The case is, therefore, closed.

■



## CHAPTER - 5

# COMPENSATION / RELIEF AWARDED TO VICTIMS

Under section 18 of the Protection of Human rights Act,1993," The Commission may take any of the following steps during upon the completion of an inquiry held under the Act, namely:-

(a) Where the inquiry discloses the Commission of violation of human rights or negligence in the prevention of violation of Human Rights or abetment thereof by a Public Servant, it may recommend to the concerned Government or Authority - (i) to

make payment of compensation or damages to the complainant or to the victim or the members of his family as the Commission may consider necessary;

As mandated under Section 18 (a) (i), the Commission recommended compensations/ relief to the victim or the members of his family to be paid by different Government authorities. The details of the Compensation/ relief awarded during 2013-14 are indicated below.

### List of cases in which Hon'ble Commission has recommended Award during the year 2013-2014

Sl. No.	Case No.	Date of award	Name of the petitioner/suo motu	Award Amount	Cause of violation
1	2	3	4	5	6
1	1290/2012(A)	28-10-13	Anupama Moharana	Rs.2,50,000/-	Electrocution.
2	668/2011		Jhumuri Munda	Rs.35,000/-	Atrocity of SOGs(Gorkha Police).
3	2887/2011	10-05-13	Suo Motu	Rs. 3,00,000/-	Police Atrocity.
4	3206/2012	12-07-13	Basanti Satpathy	Rs. 50,000/-	Torture by daughter in-law.
5	3811/2012	08-04-13	Santosh Kumar Biswal	Rs. 30,000/-	Assault of Lady Constable.
6	12/2013	06-05-13	Suo Motu	Rs. 30,000/-	Assault by Home Guard.
7	217/2012	17-05-13	Niranjan Nayak	Rs. 50,000/-	Assault by Police
8	452/2013	15-04-13	Suo Motu	Rs. 40,000/- each to Four no. victims	Misbehaviour to women.
9	501/2013	16-04-13	Badri Narayan Nayak	Rs.30,000/-	Negligence in Health Care.
10	62/2013	01-08-13	Tungena Pradhan	Rs.50,000/-	Medical Negligence.
11	340/2013	06-02-14	Biswapriya Kanungo	Rs.2.5 lakh to Hube Majhi and Rs. 1 lakh to Hari Majhi	Injury by CRPF Jawans.





CHAPTER - 6

COMMISSION OBSERVES WORLD HUMAN RIGHTS DAY

Commission observed the World Human Rights Day on the 10<sup>th</sup> of December, 2013. Hon'ble Sri Justice A.K Goel, Chief Justice of Orissa High Court was the Chief Guest. A function and Seminar on " Constitutional Safeguards in Protection and Promotion of Human Rights" was organized on the occasion in the Conference Hall of OHRC and the eminent

speakers invited on the occasion presented their views on the topic. The Annual Magazine of OHRC ' The People's Beacon and a Brochure', 'FAQ' in Odia were also released on the occasion by the Hon'ble Chief Justice of Orissa High Court, Sri Justice Adarsh Kumar Goel.





## CHAPTER - 7

# DETAILS OF SANCTIONED AMOUNT TOWARDS GRANTS / FINANCIAL ASSISTANCE TO DISTRICTS / INSTITUTIONS FOR THE YEAR 2013-14

**Information, Education and Communication Activities in the State.**

During the year 2013-14, Odisha Human

Rights Commission, Bhubaneswar had taken the initiative of creating awareness about human rights issues and subjects among the different Districts & Institutions.

Sl. No.	Name of the Districts / Institutions	Amount released in
1	Indian Institute of Public Administration, Bhubaneswar	Rs.20,000/-
2	Ashraya, Bhubaneswar	Rs.19,791/-
3	Collector, Kalahandi	Rs.14,000/-
4	Collector, Sundargarh	Rs.14,000/-
5	Collector, Balasore	Rs.14,000/-
6	Collector, Nuapada	Rs.14,000/-
7	Collector, Bolangir	Rs.14,000/-
8	Collector, Koraput	Rs.15,209/-
	<b>TOTAL</b>	<b>Rs.1,25,000/-</b>

III



### The Observance of World Human Rights Day at “ASHRAYA”, orphan’s Home, Dumduma, Bhubaneswar on 10th December, 2013



### Symposium on “Changing Dynamics of Human Rights in Today’s India” organised by “Indian Institute of Public Administration”, BBSR on 10.12.2013





## CHAPTER - 8

# BUDGET & FINANCE OF THE ODISHA HUMAN RIGHTS COMMISSION

(i)(a) Government of Odisha provided a sum of Rs.2,26,48,000/- in the State Budget under “Demand No.4-2014-Administration of Justice-Non Plan-103-Special Court-1348-State Human Rights Commission Establishment” to meet the expenditure of Odisha Human Rights Commission for the Financial Year 2013-14.

(b) Government of Odisha provided a sum of Rs.25,01,000/- in the **State Plan** Budget under “Demand No.4-2014-Administration of Justice-State Plan-State Sector-103-Special Court-1348-State Human Rights Commission Establishment” to meet the expenditure of Odisha Human Rights Commission for the Financial Year 2013-14.

(c) Government of Odisha also provided Rs.99,99,000/- in the **State Plan** Budget under” Demand No.4-4059-Capital Outlay on Public works-State Plan-State Sector-01-Office Buildings-051-Constructions-2212-Construction of Building of Law Department-37114-Public Works” to meet the expenditure of improvement of the Office of Odisha Human

Rights Commission for the Financial Year 2013-14.

(ii)(a) The savings available under some Units of Expenditure under **Non Plan** were utilized by way of re-appropriation with the concurrence of Finance Department of the State Government to meet the requirement on other units of expenditure. A total expenditure of Rs.1,70,80,000/- was made which was 75.4% of the Budgetary provision of the year 2013-14.

(b) The total Budget provision of Rs.25,01,000/- under **State Plan** was made and the expenditure of Rs.24,79,000/- was incurred as such surrender to the tune of Rs.22,000/- was made during the year 2013-14.

(iii) Unit wise provision made in the State Budget, amount augmented by way of re-appropriation, the expenditure made and amount surrendered under Non Plan & State Plan are indicated in the statement at Annexure V & VI respectively.

III



## CHAPTER - 9

# RIGHTS TO INFORMATION ACT, 2005

### Right to Information Act, 2005

Smt. Shyamali Mohapatra, Deputy Secretary and Sri Manoj Kumar Behera, Section Officer are working as the Public Information Officer and Asst. Public Information Officer respectively of the Commission to take care of the applications received from the public furnish the requisite

information to them under the Right to Information Act, 2005.

Sri Raj Kishore Choudhury, IAS, Secretary is working as the Appellate Authority of this Commission in this regard.

The details of applications and appeals received under the Act during the year 2013-14 are indicated below:

### Details of RTI Applications

1.	No. of Application Received	110
2.	No. of Application disposed off within 30 days	105
3.	No. of Application pending but disposed off beyond one month	6
4.	No. of Application pending but are within one month	-
5.	No. of Application transferred to other Departments/organization	7

### Details of 1<sup>st</sup> Appeal

1.	No. of Appeal received by the Appellate Authority	6
2.	No. of such Appeal disposed off within one month	6
3.	No. of Appeal pending	-

### Details of 2<sup>nd</sup> Appeal with S.I.C.

1.	No. of notices received from S.I.C.	3
2.	No. of hearings attended by PIO/Appellate Authority	3
3.	No. of hearing in respect of which compliance submitted to SIC	-
4.	No. of hearing in respect of which compliance not submitted to SIC	-





## ANNEXURE- I

## Occupancy Position of OHRC during the year 2013-14

1.	Chairperson	1 (Vacant from 23-11-2012)
2.	Member	2 (1-vacant)
3.	Secretary	1
4.	Director Investigation	1
5.	Registrar	1(vacant)
6.	Joint Secretary	1(Deputy Secretary)
7.	Addl. Supdt. of Police	1
8.	Under Secretary	1
9.	Dy. Supdt. of Police	2
10.	Private Secretary	2(Vacant)
11.	Inspector of Police	2
12.	Section Officer	2
13.	Personal Assistant	6(3- vacant)
14.	Senior Assistant	2
15.	Accountant-cum-Cashier	1
16.	Senior Stenographer	2 (1-vacant)
17.	Junior Stenographer	3(1- vacant)
18.	Computer Operator	1(vacant)
19.	Junior Asst.	2(1- vacant)
20.	Despatcher-cum-Typist	2
21.	Constable	3
22.	Driver	4
23.	Peon/Class-IV	8



### ANNEXURE-II

#### Subject-wise classification of cases registered & disposed off during the year 2013-14

Sl.No.	Classification of cases	No. of cases
1.	Children	32
2.	Health	65
3.	Jail	46
4.	Anto social activities	85
5.	Labour	149
6.	Minorities SC/ST	93
7.	Physically handicapped	16
8.	Police paramilitary force	1723
9.	Pollution	20
10.	Religion/community	73
11.	Service matter	616
12.	Women	602
13.	Miscellaneous	656
	<b>Total No. of cases received during the year</b>	<b>4176</b>
	Dismissed in limine	1542
	Entertained during the year	2634
	Cases pending from the previous year	5749
	<b>Total no. Of cases</b>	<b>8383</b>
	Disposed of on hearing	1727
	<b>Total No. of cases pending at the end of the year.</b>	<b>6656</b>



## ANNEXURE-III

**Classification of cases taken up Suo-motu  
during the year 2013-14**

Sl.No.	Classification of cases	No. of cases
1.	Children	04
2.	Health	04
3.	Jail	46
4.	Anti Social Activities	06
5.	Labour	03
6.	Minorities SC/ST	00
7.	Physically Handicapped	1
8.	Police Paramilitary Force	3
9.	Pollution	00
10.	Religion/Community	3
11.	Service Matter	00
12.	Women	07
13.	Miscellaneous	08
	<b>Total</b>	<b>85</b>



### ANNEXURE-IV

#### Subject-wise classification of cases disposed off during the year 2013-14

Sl.No.	Classification of cases	No. of cases
1.	Children	16
2.	Health	09
3.	Jail	46
4.	Anti Social Activities	145
5.	Labour	25
6.	Minorities SC/ST	140
7.	Physically Handicapped	03
8.	Police Paramilitary Force	833
9.	Pollution	07
10.	Religion/Community	16
11.	Service Matter	64
12.	Women	136
13.	Miscellaneous	287
	<b>Total</b>	<b>1727</b>



## ANNEXURE-V

Statement showing unitwise provision made under demand no.4-2014-non plan  
Detail of expenditure statement of Odisha Human Rights Commission under demand no.4-2014-  
administration of justice-non-plan-103-Special Court-1348-for the year 2013-14

## MAJOR HEAD-2014-ADMINISTRATION OF JUSTICE-103-SPECIAL COURT

MAJOR HEAD	SUB	C.NO	DETAILS DESCRIPTION	B.E. FOR 2013-14(Trs.)	SUPPLEMENTARY/ -RE-APPROPRIATION FOR 2013-14(Trs.)	TOTAL PROVISION FOR 2013-14(Trs.)	DETAILS OF SURRENDER FOR THE YEAR 2013-14 (Trs.)	TOTAL EXPENDITURE FOR THE YEAR 2013-14(Trs.)	Reasons for surrender
136	1348	01003	PAY	88,20		8820	16,71	71,49	Due to non
855	1348	01003	ARREAR PAY	1		1	1	NIL	filling up of
147	1348	01003	D.P	-	-	-	-	-	vacant posts
156	1348	01003	D.A	74,97	(-)1,05 (-)1,34	72,58	23,15	49,43	
403	1348	01003	HRA	3,00		3,00	23	2,77	
516	1348	01003	RCM	3,00	(+)1,34	4,34	1	4,33	
523	1348	01003	OA	6,00	(+)1,05	7,05	13	6,92	
000	1348	06001	TE	5,20		5,20	1,92	3,28	
000	1348	07001	LTC	4,50		4,50	3,16	1,34	
074	1348	08001	ELECTRICITY DUES	7,80		7,80	2,08	5,72	
149	1348	08001	WATER CHARGE	1		1	1	NIL	
154	1348	08001	TEL.CHARGE	7,86	(-)2,00(R)	5,86	3,91	1,95	
397	1348	08001	MOTOR VEHICLE	15,00	(+)3,00(R)	12,00	3,52	8,48	



MAJOR HEAD	SUB	C.NO	DETAILS DESCRIPTION	B.E. FOR 2013-14(Trs.)	SUPPLEMENTARY -RE-APPROPRIATION FOR 2013-14(Trs.)	TOTAL PROVISION FOR 2013-14(Trs.)	DETAILS OF SURRENDER FOR THE YEAR 2013-14 (Trs.)	TOTAL EXPENDITURE FOR THE YEAR 2013-14(Trs.)	Reasons for surrender
506	1348	08001	OTHER CONTINGENCIES	4,35	(+)5,00(R)	9,35	-	9,35	
000	1348	78118	UP-GRADATION OF COMPUTER FACILITY	1,00		1,00	2	98	
000	1348	78012	COMPUTER CONSUMABLES	50		50		50	
000	1348	33011	SPARE & SERVICES	50		50	3	47	
000	1348	12001	CONSULTING CHARGES	60		60	58	2	
000	1348	12006	PAYMENT FOR PROFESSIONAL & SPECIAL SERVICES	2,73		2,73	21	2,52	
000	1348	41048	GRANTS	1,25		1,25	Nil	1,25	
			<b>TOTAL</b>	<b>2,26,48</b>		<b>2,26,48</b>	<b>55,68</b>	<b>1,70,80</b>	



### ANNEXURE-VI

Statement showing unitwise provision made under demand no.4-2014-State Plan  
Detail of expenditure statement of Odisha Human Rights Commission under demand no.4-2014-  
administration of justice State Plan-103-Special Court-1348-for the year 2013-14

#### MAJOR HEAD-2014-ADMINISTRATION OF JUSTICE-103-SPECIAL COURT

MAJOR HEAD	SUB	C.NO	DETAILS DESCRIPTION	B.E. FOR 2013-14(Trs.)	SUPPLEMENTARY/ -RE-APPROPRIATION FOR 2013-14(Trs.)	TOTAL PROVISION FOR 2013-14(Trs.)	DETAILS OF SURRENDER FOR THE YEAR 2013-14 (Trs.)	TOTAL EXPENDITURE FOR THE YEAR 2013-14(Trs.)	Reasons for surrender
397	1348	08001	Motor Vehicle	1	-	1	1	NIL	Due to Non
506	1348	08001	Other Contingencies	25,00	-	25,00	21	24,79	filling of vacant posts
			<b>TOTAL</b>	<b>25,01</b>	<b>-</b>	<b>25,01</b>	<b>22</b>	<b>24,79</b>	



