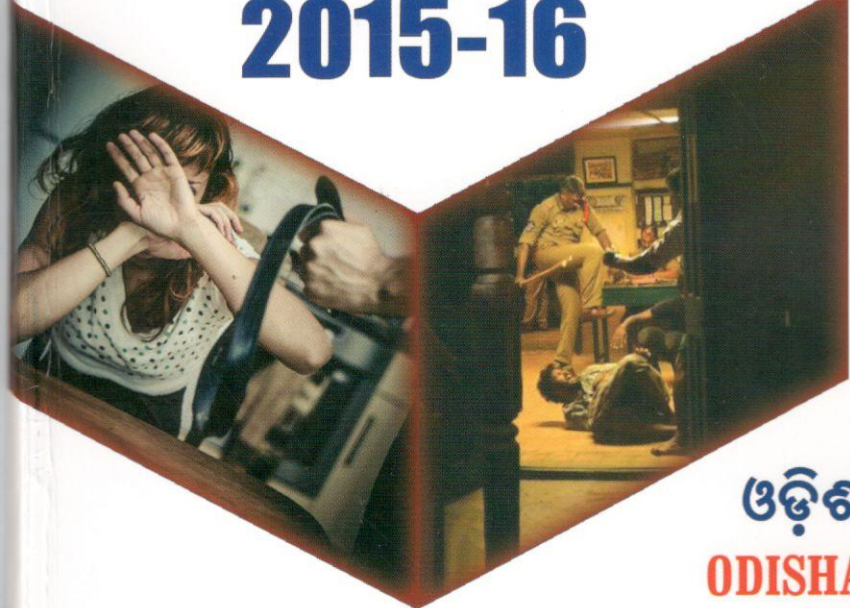
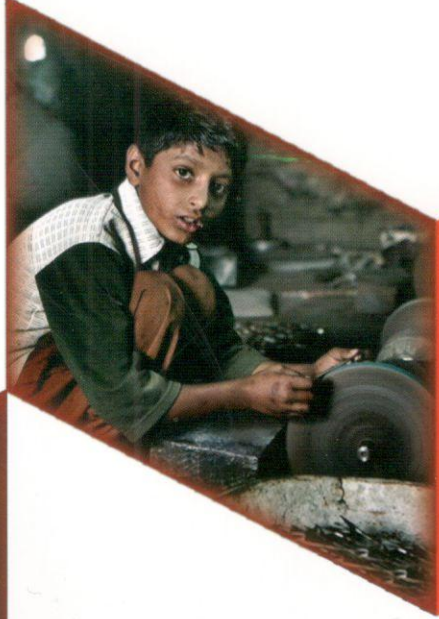


ବାର୍ଷିକ ବିବରଣୀ

**ANNUAL
REPORT
2015-16**



ଓଡ଼ିଶା ମାନବ ଅଧିକାର ଆୟୋଗ
ODISHA HUMAN RIGHTS COMMISSION
BHUBANESWAR, ODISHA



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ODISHA HUMAN RIGHTS COMMISSION

BHUBANESWAR, ODISHA



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CHAPTER - 1

INTRODUCTION

1. The Odisha Human Rights Commission was constituted in 2003 under Sub-Section (1) (2) & (4) OF Section 21 of the Protection of Human Rights Act, 1993. During thirteen years of existence, the Commission has been making unflinching efforts for effective implementation and enforcement of the Protection of Human Rights Act, 1993 in the State. The Commission has also been making concerted efforts for creating awareness amongst people in understanding the broader meaning of Human Rights relating to life, liberty, equality and dignity of the individual guaranteed by the constitution and embodied in the International Covenants. Human Rights deals with subjects coming under Children, Health, Jail, Criminal Gangs, Labour, Minorities /SC/ST, Physically Handicapped, Police/ Paramilitary forces, Pollution, Religion community, Service matter, Women and other miscellaneous matters. During the course of action, the Commission have emphasized on protection of more vulnerable and weaker section of our society which includes children, distress women, people in custody, patients under medical treatment, physically, mentally and socially disadvantaged person.

The Commission's intervention has resulted in tremendous improvement in many illustrative areas where human rights and fundamental freedoms of individuals or group are to be safeguarded. It is there for the help of the administration and the people to achieve the social, economic and cultural rights adopted by the General Assembly of the United Nations on 16th December, 1996. People are gradually coming to realize that violation of human rights is a matter which can be effectively taken care of by the Human Rights Commission.

In OHRC Case No.2782/2014, the Hon'ble Commission under 18 a (i) of the Protection of the Human Rights Act, 1993 had recommended compensation of Rs.3, 00,000/- (Rupees Three Lakhs Only) to the parents of the deceased boy namely Srikant Mohanty, a student of Class - VII of Ambo U.P. School in Keonjhar district, who died on 04-01-2014 due to collapse of the school toilet wall. The Commission observed that the poor quality of work coupled with total lack of supervision led to the collapse of the wall which claimed the life of one adolescent without giving any opportunity to prove his worth. The above recommendation was communicated to the Principal Secretary to Government, Rural Development Department, Odisha and Collector, Keonjhar. Subsequently, pursuant to the order of the Commission dated 08-01-2016, the Executive Engineer, RWS.& S Division, Anandapur in his letter dated 28-03-2016 reported that the compensation amount of Rs.3,00,000/- has been credited in equal shares on 04-03-2016 in the account of Shri Budhadeba Mohanty (father) and Smt. Laxmipriya Mohanty (mother) of the deceased student Srikant Mohanty of Ambo U.P. School under Hatadihi Block of Keonjhar district. The details of the illustrative order passed by the Commission is given in chapter - 4.

2. Hon'ble Shri Justice B.K. Misra assumed the charge of the Acting Chairperson from 18-11-2013 and is continuing as such. Shri B.K. Pattnaik, IAS (Retd.), Former Chief Secretary, Odisha, assumed the office of the Member (Administrative) on 04-07-2014 and continued up to 24-07-2015. Shri Santosh Kumar Upadhyay, IPS who was continuing as Addl. D.G. of Police-Cum-Director Investigation went on transfer on 25-02-2016 being succeeded by Shri Manoj Kumar Chhabra, IPS.



Shri Ananda Chandra Shial, IAS who assumed the office of the Secretary of the Commission on 29-10-2015 after transfer of Shri Benudhar Behera, IAS on 16-10-2015, also continued as such during the period under report

3. During the year 2015-16, the Commission continued its efforts to sensitize people about provisions of the Protection of Human Rights Act, 1993 and relevant regulations by conducting awareness camps through NGOs and Collectors of different districts. Camp Courts were also held by the Commission for prompt redressal of the grievances of the petitioner.

4. The World Human Rights Day was observed by the Commission on 10th of December, 2015. Hon'ble Shri Justice Arijit Pasayat, Former Judge of Hon'ble Supreme Court of India was the Chief Guest and Shri Chandrabhanu Satpathy, IPS (Retd.) was the Chief Speaker. A debate competition among law students of different colleges and Universities on the topic "**Human Rights in Conflict Situation**" was conducted on the eve of the occasion and best performers in the said competition were awarded prizes on the day. The "Peoples Beacon", the Annual Magazine of the Commission was also released on the occasion by the Chief Guest.





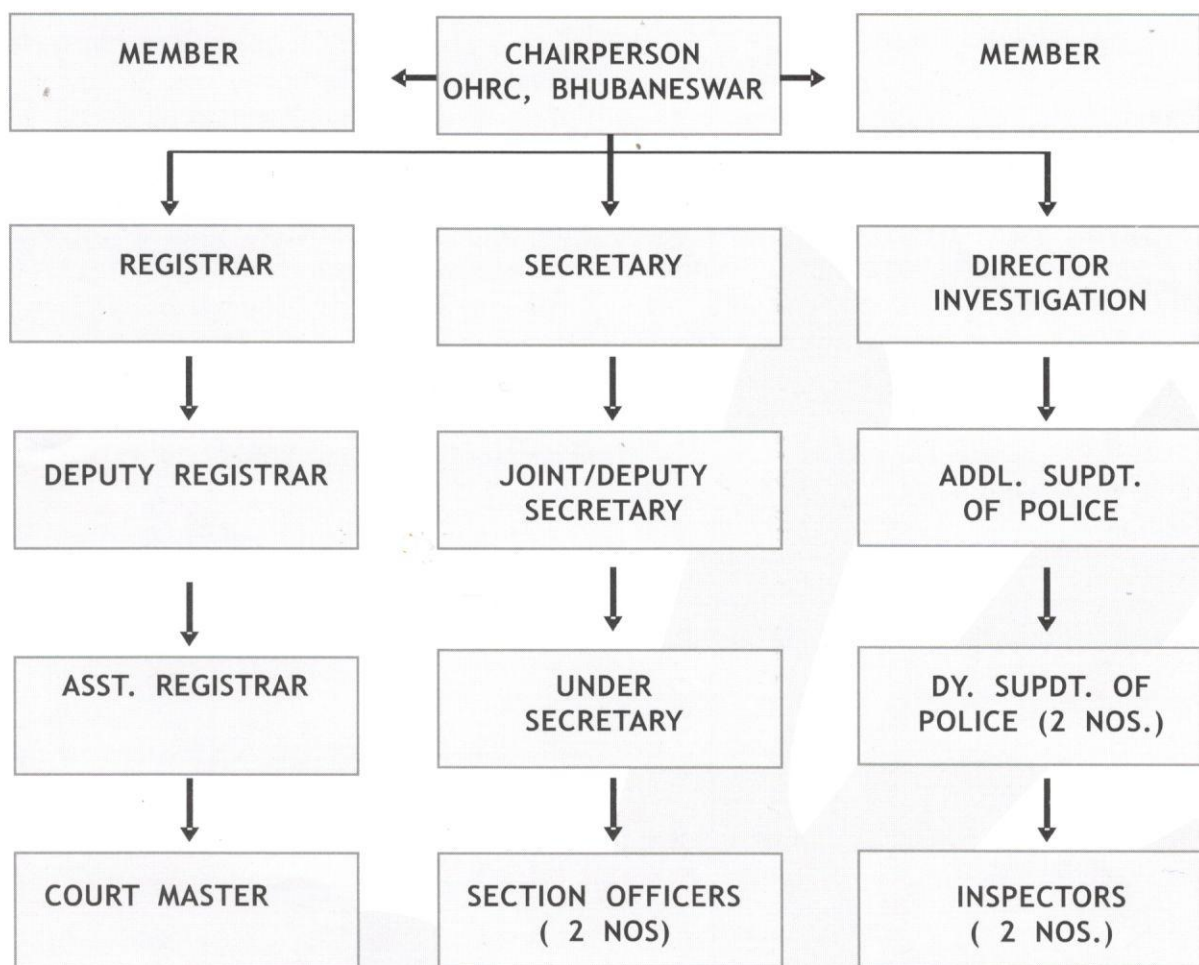
CHAPTER - 2

COMPOSITION OF THE COMMISSION 2015-16

| | | Date of joining | Date of retirement |
|-------------------|--------------------|-----------------|--------------------|
| Justice B.K Misra | Acting Chairperson | 18-11-2013 | Continuing |
| B.K Patnaik | Member | 04-07-2014 | 27-04-2015 |

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 1st April 2015 till 31st March 2016, the Commission received 5806 number of Complaint Petitions out of which 1820 complaints were dismissed in limine and the balance 3986 cases were entertained for enquiry by the Commission, which included 76 numbers of cases entertained Suo Motu for enquiry. During the period under report, 1483 number of Cases were disposed of after enquiry besides 1820 Cases having been dismissed in limine.

The Statement indicating subject-wise classification of Cases filed during 2015-16 is furnished in Annexure II. suo motu Cases filed during the period under Report is furnished vide Annexure III. Classification of Cases entertained during 2015-16 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

O.H.R.C. CASE NO. : 43 OF 2015

Dillip Kumar Das.....Petitioner

This petition of Dillip Kumar Das has been received from NHRC on transfer for disposal by this Commission. The petitioner has alleged that Duryodhan Swain, a farmer of village Natim under the Ranapur PS limit of Nayagarh district got killed by electrocution by coming in contact with low hanging live 11 KV electric wire on 07-11-2014. The petitioner has prayed for impartial enquiry and grant of compensation. A copy of the petition was sent to Secretary to Government, Energy Department, CEO, CESU, Bhubaneswar and Collector, Nayagarh to enquiry into the matter and furnish a factual report to the Commission.

The letter of the Joint Secretary to Government, Department of Energy dated 03-12-2015 as well as the report of the Senior General Manager (Safety) CESU, Bhubaneswar have been received at this Commission..

The Senior General manager (Safety) CESU, Bhubaneswar was directed by the Commission to appear in person on 04-02-2016 at 11 am and to explain the matter about payment of ex-gratia to the next of kins of the deceased Duryodhan Swain, who admittedly died because of electrocution.

Order Dated : 04-02-2016

Pursuant to the direction of this Commission dated 17.12.2015, Shri Nilambar Jena, Sr. General Manager (Safety), CESU, Bhubaneswar, Shri Prasant Kumar Swain, Manager (Safety), CESU, Bhubaneswar, Shri Bibhuti Prasad Harichandan, SDO(Electrical), Tangi Sub-Division, BAED, Balugaon and Shri Ganeswar Sahoo, Jr.Manager (Electrical), Chandapur BED, Balugaon present.

Perused the letter of the Government of Odisha in the Department of Energy dated 3rd December, 2015 as well as the compliance report of the Government with regard to the electrocution of Duryodhan Swain by coming in contact with a live 11 KV conductor, which dropped down on the victim on 7th November, 2014. The report discloses that in all a sum of Rs.70,000/- has been given to the wife of the deceased as financial assistance by the CESU.

Perused the response filed by the Sr. General Manager(Safety), CESU dated 29.07.2015. Perused also the petition sent by one Dillip Kumar Das by e-mail to the Chairperson, National Human Rights Commission, New Delhi, wherein he had alleged that a 49 year old farmer namely Duryodhan Swain of village Narasinghpur under Ranapur Police Station limits in the district of Nayagarh while returning from his paddy field along with a bundle of grass on 7th November, 2014 around 4.30 PM came in contact with a over hanging live conductor, which was hanging at a very low height and got electrocuted. Accordingly, the petitioner prayed the National Human Rights Commission, New Delhi for payment of ten lakhs rupees as compensation to the next of kin of the deceased along with other prayers.

This petition was transferred to this Commission for disposal by the National Human Rights Commission under Section 13(6) of the Protection of Human Rights Act, 1993 as amended by the Protection of Human Rights (Amendment) Act, 2006.

The report of the Government in the Energy Department reveals that the electrical accident occurred in the 3 phase (3 wire) 11 KV line from Bokakhai cut point to Natimi



village 100 KVA 11/0.4 KV Sub-Station. 11 KV Gopalpur feeder is emanating from 33/11 KV Ranpur Primary Sub-Station and getting power supply from 5 MVA, 33/11 KV power transformer. The above feeder runs via Gopalpur, Khandisi, Jharpara and Kanchanpur. The said Trunk feeder is bifurcating two branch feeder at Bokakhai fuse control cut point. The deceased late Duryodhan Swain, son of late Sankar Swain aged about 45 years while working in his paddy field in village Natimi, the 11 KV conductor (B.Phase) dropped down on the victim because of the pin insulator found burst and the conductor snapped from the nearest burst pin point. The Government admits that as per the post-mortem report, the victim died due to cardio respiratory failure and burn due to high voltage electric shock. Similarly, the Sr. General Manager (Safety), CESU, Bhubaneswar in his report admits about the death of Duryodhan Swain because of falling of the snapped live conductor on him while he was returning from his paddy field after collecting a bundle of grass. It is also admitted that on humanitarian consideration and as per the settlement between the relatives and local authorities of the CESU in presence of Government and public representatives, an amount of Rs.70,000/- has been provided to the wife of the deceased as financial assistance but the accident has been ascribed as an "Act of God" and the situation under which the live conductor fell on the victim is just purely accidental and beyond the control of CESU.

Law is very clear on the point. The Hon'ble Apex Court of the Country in the case of **M.C. Meheta Vrs. Union of India (1987) 1 SCC 395** have held that :-

"where an enterprise is engaged in a hazardous or inherently dangerous activity and harm is caused on any one on account of the accident in the operation of such activity the enterprise is strictly and absolutely liable to compensate those who are affected by the accident, such liability is not subject to any

of the exception to the principle of strict liability under the rule in *Rylands-v-Fletcher*."

The Commission observes that CESU is responsible for the maintenance of the electric line and they are bound to take protective measures so that live electric wires/conductors do not fall on any surface or touch any live object moreso, a human being. Had the CESU and its employees exercised proper care and supervision, the weak conductor or the defective conductor could have been replaced in time but there is no material to show that periodical inspection and checking of the 11 KV line or 33 KV line to have been carried out by CESU. Therefore, the Commission has no hesitation to hold that the death of Duryodhan Swain solely occurred due to lack of care and diligence on the part of the CESU and its functionaries. The contention of the Sr. Manager(Safety), CESU, Bhubaneswar that the unfortunate incident is an "Act of God" is not acceptable at all.

Now coming to the next question as to what should be just and proper compensation to be awarded to the next of kin of the deceased Duryodhan Swain. It has to be remembered that monetary or pecuniary compensation is an appropriate and indeed an effective and sometimes perhaps the only suitable remedy for redressal of the established infringement of fundamental right of a citizen by the State and its functionaries. In the assessment of compensation, emphasis has to be given on the compensatory and not the punitive element.

The Apex Court in the case of **Raj Kumar Vrs. Ajay Kumar (2011) 1 SCC 343** have held that

"Effort should always be made to provide adequate compensation and calculation of amount of the compensation to be so awarded involves some surmises, some hypothetical consideration, some amount of sympathy and all the aforesaid elements have to be viewed with objective standards".



Thus, keeping in view the admitted facts of the case and when admittedly, the death of Duryodhan Swain has occurred because a live electric conductor fell on him while he was returning from the paddy field on 7th November, 2014 when he was 45 years old and the sole bread earner of the family, the Commission feels that the financial assistance, which has been provided to the widow of the deceased i.e. Rs.70,000/- is too meager. Object of awarding financial assistance is to apply balm to the wounds and not a charity or a bonanza and also not meant to punish the wrong doer. The relief to address the wrong for the established invasion of the fundamental rights of the citizen, under the public law jurisdiction is, thus, in addition to the traditional remedies and not in derogation of them.

The Commission feels it just and proper to recommend to the CESU (Central Electricity Supply Utility of Odisha) for payment of financial assistance to the widow/next of kin of the deceased Duryodhan Swain, a sum of Rs.2,00,000/- (Rupees two lakhs) under Section 18(1) of the Protection of Human Rights Act, 1993 over and above the amount which has already been paid to the widow of the deceased within two months of receipt of this order, failing which appropriate action will follow.

Compliance by the Public Authority:

Pursuant to the order of the Commission, the Sr. General Manager (Safety), CESU, Bhubaneswar, subsequently reported that the compensation amount of Rs. 2 lakhs has been paid to Smt. Gayatri Swain, the widow of late Duryodhan Swain & a copy of the stamped money receipt as proof thereof has been enclosed with the report. Accordingly, further proceeding in this case stands closed.

OHRC CASE NO. : 1018 OF 2015

Sri Biswapriya Kanungo.....Petitioner
Order dated:- 21st December, 2015

Article 21 of the Constitution of India occupies a place of pride in our Constitution.

This Article mandates that no person shall be deprived of his life and personal liberty except according to the procedure established by law. Custodial violence/torture and abuse of Police power are not peculiar to our country, but it is widespread. The Universal Declaration of Human Rights 1948, marked the emergence of a worldwide trend of protection and guarantee of certain basic human rights as stipulated in Article 5 which says that “ no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. Despite this pious declaration, instances have come to the notice that crime continues though every civilized nation shows its concern and makes effort for its eradication.

In the instance case, Sri Biswapriya Kanungo, an Advocate by profession and Human Rights Activist, by drawing the attention of this Commission to two news clipping published in the Jeypore edition of “ SAMBAD” dated 19-03-2015 and daily edition of ‘DHARITRI’ dated 18-03-2015 alleges that a boy aged about 13 years old to have been illegally detained in Laxmipur Police station of Koraput district for about 7 days and was brutally tortured while he was in custody. The newspaper clippings also revealed that the said minor boy sustained injuries because of police torture while being interrogated by Laxmipur Police and received medical treatment. Accordingly, the petitioner Mr. Kanungo prayed to the Commission for enquiry into the matter and to award compensation to the victim as he was subjected to inhuman torture while in custody of Laxmipur Police.

The Commission took cognizance of the alleged serious violation of human rights of a minor boy aged about 13 years by Laxmipur Police and called for a report from the Superintendent of Police, Koraput. The Superintendent of Police, Koraput in his letter No-811/HRPC dated 02-05-2015 reported that the matter was entrusted to the SDPO, Laxmipur for enquiry. The report of the SDPO,



Laxmipur reveals that the victim minor boy was studying in odiyapentha School, Laxmipur in class-VI and was staying in the School hostel, but he left the School hostel and was staying at Harijan Sahi of Laxmipur. The said minor boy, namely Rahul @Sankar Garada aged about 13 years was strongly suspected to have been involved in Laxmipur PS case No.25 dated 22-05-2014 registered under Sections 457 and 380 of the IPC, Laxmipur PS case No.35 dated 03-07-2014 registered under Sections 457 and 380 of the IPC and Laxmipur PS case No.54 dated 15-11-2014 which was also registered under Section 457 and 380 of the IPC. The report of the SP, Koraput further reveals that the SDPO, Laxmipur on enquiry found that the aforementioned minor boy was brought to Laxmipur Police station on 11-03-2015 by the staff of Laxmipur PS and he was detained for interrogation. During interrogation, he was assaulted on his both feet in the Police Station by Sri Kailsh Chandra Sethi, IIC Laxmipur Police Station, as a result of which he sustained swelling injuries on his both feet, for which he was sent to CHC, Laxmipur for treatment on 16-03-2015 and 17-03-2015. On 16-03-2015 around 9.45 pm the mother of the minor victim boy, namely Smt. Laxmi Garada when came to Laxmipur Police Station she was told by the IIC to take back her son but she refused to take her son as there was swelling on his both feet and she told that she would be taking the injured on 17-03-2015 after due treatment. According to the report of the SP, Koraput, on 17-03-2015 at 11 am the mother of the victim boy was handed over custody of her son after due treatment, but on 19-03-2015 again the injured was admitted at CHC, Laxmipur for treatment where from he was referred to District Head Quarters Hospital, Koraput. Accordingly to the SP Koraput the CDMO, Koraput was requested to provide proper treatment to the victim boy and the SDPO, Laxmipur was directed to liaise with the Medical officer and to monitor the treatment of the minor victim boy. On 21-03-2015 the minor victim boy was taken to District

Headquarters Hospital, Koraput, where Dr. K.R Mohapatra plastered his both the feet, On 14-04-2015 the Plasters were removed and after medical examination, he was found fit as the injured was walking freely. It is also reported by the SP Koraput that draft charge and memo of evidence against the Inspector of Police, Sri Kailash Chandra Sethi, IIC, Laxmikpur PS have been submitted to the competent authority for initiation of departmental enquiry and to take necessary disciplinary action for this gross misconduct and dereliction in duty.

Regarding the injuries which were detected on the person of the minor victim boy, there are overwhelming materials to corroborate that. The photocopy of the injury report of the minor victim boy dated 16-04-2015 issued by the Medical Officer in-Charge, CHC, Laxmipur reveals that there was swelling on the total anterior aspect of both the feet. Again on 17-3-2015 examination by the Medical Officer, CHC, Laxmipur was done in respect of the victim boy and swelling was found on both the feet and the doctor suspected fracture of small bones, for which he advised X-ray examination of the injured feet. On 19-3-2015 the said doctor, on viewing the X-ray films, found fracture of 4th and 5th metacarpals on both side of foot and referred to District Headquarters Hospital, Koraput, i.e. to the Orthopaedic Department for re-plaster and further treatment.

The Commission had summoned the doctor of CHC, Laxmipur to appear before it during enquiry with regard to the injury report which he furnished in respect of the injured minor boy. Dr. Naba Kishore Kundu, who was Medical Officer- in-Charge, CHC, Laxmipur, has furnished a report to the Commission on 6-7-2015 stating that the injuries which he found on the person of the injured, i.e. fracture of 4th and 5th metacarpal of both the feet were grievous in nature, but he inadvertently forgot to mention that fact in the injury report. He further opined that the possibility of existence of such injury for some



other reasons, besides accidental fall cannot be ruled out. The photocopy of the bed-head ticket of District Headquarters Hospital, Koraput which has been forwarded to this Commission by the CDMO, Koraput reveals that the injured Rahul @ Sankar Garada was admitted into District Headquarters Hospital, Koraput on 21-3-2015 at 3 pm and the X-ray films revealed fracture of head of 4th metacarpal of right foot and fracture of shaft of 5th metacarpal of the left foot and accordingly both the feet were bandaged and the injured was discharged on 22-3-2015. Such fracture which existed on both the feet were detected also on 17-3-2015 by Dr. G. Krishna Prasad, Orthopaedic Specialist as is envisaged from the photocopy of the prescription, i.e. also evident from the medical prescription dated 19-3-2015 of the DHH, Koraput.

Sri Kailash Chandra Sethi, who was the Inspector-in-Charge, Laxmipur Police Station in his written response to the report of the SP, Koraput though admits of the injuries on both the feet of the minor, has resorted to the plea that the victim, on seeing the Police personnel on 16-3-2015 morning, tried to escape by jumping from a mango tree, but could not do so because of the injuries which he sustained on his legs by dashing against the hard stony surface and the victim was immediately sent to CHC, Laxmipur for treatment through Constable No.335 and subsequent treatment on 17-3-2015 and also the treatment received by the boy in the District Headquarters Hospital, Koraput. The said Inspector of Police denies the allegation to have brought the victim boy for seven days and was subjected to assault.

Thus, the fact remains that the victim boy had sustained fracture injuries on his both the feet. The IIC, Laximpur PS denies the allegation to have detained the boy in Laxmipur PS for seven days and also denies to have assaulted the victim boy, for which he sustained fracture injuries on his both the feet.

Mr. Kanungo very strenuously urged before the Commission that when admittedly the suspect was 13 years old, he should have been dealt with as per the provisions contained in the Juvenile Justice (Care and Protection of Children) Act, 2000 as amended up-to-date along with the Juvenile Justice (Care and Protection of Children) Rules, 2007. Ample materials are there on record including the report of the SP, Koraput that the injured boy was suspected to have been involved in three cases of house breaking by night and property theft cases registered under Laxmipur Police Station and the report of the SP, Koraput also candidly reveals that during enquiry it was ascertained that Rahul @ Sankar Garada was brought to Laxmipur PS on 11-3-2015 by the staff of Laxmipur PS, where he was detained for interrogation. During interrogation, he was assaulted on his both the feet in the Police Station by Sri Kailash Chandra Sethi, IIC, Laxmipur PS, as a result of which the boy sustained swelling injuries on his both feet. This report of the SP, Koraput has been disputed by Sri Kailash Chandra Sethi, IIC, Laxmipur PS in his response dated 25-8-2015.

Now let us come to the contention of Sri Kanungo with regard to flagrant violation of the mandatory provisions of Juvenile Justice (Care and Protection of Children) Act, 2000 (in short the JJ Act). Rule 3 of JJ Rules, 2007, i.e. "juvenile or child or juvenile in conflict with law is presumed to be innocent of any mala fide or criminal intent up to the age of 18 years and such child's right to presumption of innocence shall be respected throughout the process of justice and protection, from the initial contact to alternative care including after care". Sub-Rule VI of Rule 3(6a) speaks that "at all stage, from the initial contact till such time he remains in contact with the care and protection system and thereafter, the juvenile or child or juvenile in conflict with law shall not be subjected to any harm, abuse, neglect, mal-treatment, corporal punishment or solitary or otherwise any confinement in jails and extreme care shall be taken to avoid



any harm to the sensitivity of the juvenile or the child. The state has a great responsibility for ensuring safety of every child in its care and protection, without resorting to restrictive measures and processes in the name of care and protection". Rule 11 of the JJ Rules, 2007 prescribes that since a juvenile alleged to be apprehended by a Police, the concerned Police Officer shall inform:

- a) The designated Juvenile or the Child Welfare Officer in the nearest Police Station to take charge of the matter;
- b) The parents or guardian of the juvenile alleged to be in conflict with law about the apprehension of the juvenile, about the address of the Board where the juvenile will be produced and the date and time when the parents or guardian need to be present before the Board.

* * *

Rule 11(11) of the JJ Rules, 2007 further speaks that "in dealing with cases of juveniles in conflict with law the Police or the Juvenile or the Child Welfare Officer from the nearest Police Station shall not be required to register an FIR or file a charge-sheet, except where the offence alleged to have been committed by the juvenile is of a serious nature such as rape, murder or when such offence is alleged to have been committed jointly with adults; instead, in matters involving simple offences, the Police or the Juvenile or the Child Welfare Officer from the nearest Police Station shall record information regarding the offence alleged to have committed by the juvenile in the general daily diary followed by a report containing social background of the juvenile and circumstances of apprehension and the alleged offence and forward it to the Board before the first hearing."

The above is the salutary provisions of law. But in the instant case, the Commission has no hesitation to observe that the IIC, Laxmipur Police Station has closed his eyes to the aforesaid provisions of law and probably he was oblivious of such existence of the

Rules and procedures as to how to handle a child in conflict with law, especially when he is of very tender age of 13 years.

To get an idea as to what happened in Laxmipur Police Station and as to when exactly the boy was brought to the Police Station and how long he was detained, the Station Diary Book of Laxmipur PS was called for containing entries from 10-3-2015. It is the case of the Inspector of Police then attached to Laxmipur PS, namely Sri Kailash Chandra Sethi that he on receipt of information on the morning of 16-3-2015 that suspect Rahul @ Sankar Garada was present in Laxmipur Hatapada area, instructed SI of Police, Sri M.K. Pradhan, ASI of Police, Sri C.K. Nayak and C/335 Sri S.K. Bagh to proceed to Hatapada, where they found the suspect to have climbed a mango tree and on seeing them suddenly jumped from the mango tree, but could not flee because of the injury sustained by him by falling on the hard stony surface. He further takes the plea that SI of Police and ASI of Police brought the suspect to Police Station at 9 am on 16-3-2015. Perusal of the entries made in the Station Diary Book of Laxmipur Police Station dated 16-3-2015 vide Station Diary Entry No.328 recorded at 8:10 am shows about receipt of reliable information about the moving of suspect Rahul @ Sankar Garada of Harijan Sahi in Hatapada, Laxmipur. Station Diary Entry No.329 recorded at 8:20 am reveals that as per the order of IIC, SI of Police, Sri M.K.Pradhan and ASI of Police, Sri C.K. Bagh and C/335 Santosh Kumar Bagh left for Hatapada to apprehend the suspect Rahul in Laxmipur PS case Nos.25, 35 & 54 of 2014. Entry No.331 recorded at 9 am reveals that the injured was brought to Police Station and at 9:10 am he was sent to CHC, Laxmipur for his treatment. Very interestingly Station Diary Entry made on 17-3-2015 vide Entry No.361 recorded at 11:15 am shows that the suspect Rahul @ Sankar Garada was handed over to his mother Laxmi Garda, who took her son to her house and she was instructed to produce Rahul @ Sankar Garada for the purpose of



investigation after recovery from the injury. Station Diary Entry No.362 made at 11:30 am on 17-3-2015 reveals that the suspect Rahul @ Sankar Garada while in Police Station confessed that he along with others committed burglary in the house of one Daitari Bisoi of village Kanimusa and committed theft of one camera and other articles. Accused Sankar Garada also confessed to have committed burglary in the jewellery shop of S. Trinath Achary of Main Road, Laxmipur and also admitted to have committed burglary in the house of Prasanta Kumar Choudhury of Tarifsing Colony, Laxmipur. The Station Diary Entries made on 16-3-2015 vide Entry No.331 recorded at 9 am till Entry No.362 dated 17-3-2015 recorded at 11:30 am clearly establishes that the victim injured boy had been detained in Laxmipur Police Station for interrogation and probably to extract confessions.

It is a well established fact that the Police Officers posted in a Police Station are the custodians of the Station Diary Book, the FIR book and it would be difficult to secure evidence against policemen responsible for resorting to third degree methods as the Police Officers in-charge of the Police Station records do not find it difficult to manipulate the Police Station records. The Superintendent of Police of the district has specifically reported to this Commission that the victim boy was brought to Laxmipur Police Station on 11-3-2015 and was detained for interrogation. The SP, Koraput also categorically reported that during interrogation the boy was subjected to assault on his both feet in the Police Station by Sri Kailash Chandra Sethi, IIC, Laxmipur PS, for which he sustained swelling injuries on both of his feet. If we look for any evidence or corroborative facts to establish custodial torture that would be a futile attempt as no direct evidence can be made available to substantiate the charge of torture or causing hurt merely because of the fact that the general public do not have any access to a Police Station and such torture invariably takes place away from public gaze and the only

witnesses are either policemen or prisoners, who are highly reluctant to speak because of ties of brotherhood or fear of retaliation by superior officers of the Police. (D.K. Basu v. State of West Bengal, AIR 1997 SC, 610, State of Madhya Pradesh v. Shyamsunder Trivedi, 1995 AIR SCW 2793).

Despite several judgments of the Apex Court of the country, there has been no noticeable change in the functioning of the Police system in our country. The law enforcers cannot take law into their hands to collect evidence or to unearth the mystery over the crime. There is a great responsibility on the Police or prison authorities to ensure that the citizen in its custody is not deprived of his right to life. Duty of care on the part of the State is strict and admits of no exceptions.

In the instant case, at the cost of repetition, the Commission may observe that instead of handing over the child in conflict with law to the designated Juvenile or Child Welfare Officer in the nearest Police Station to take charge of the matter as envisaged under Rule 11(a) of the JJ Rules, 2007 and provisions of Rule 3 of the said Rules, 2007, Laxmipur Police kept the juvenile in the Police Station as per the admitted facts mentioned in the Station Diary Book entry No.331 recorded at 9 am on 16-3-2015 and entry No.362 recorded at 11:30 am on 17-3-2015. The report of the SP, Koraput shows that already he has moved the competent authorities for initiation of a disciplinary proceeding against Sri Kailash Chandra Sethi, IIC, Laxmipur PS for gross misconduct and dereliction in duty for assaulting a minor boy while he was in Police custody. The plea which Sri Kailash Chandra Sethi, the then IIC, Laxmipur Police Station has taken while filing his response to the report of the SP, Koraput that he was not given adequate opportunity of defending his case and the disciplinary proceeding has been wrongly initiated are matters to be considered by disciplinary authority and the Commission is no way concerned with such move of the SP, Koraput for initiation of the departmental proceeding against Sri Kailash Chandra Sethi.



It is now a well accepted proposition that monetary or pecuniary compensation is an appropriate and indeed an effective and sometimes perhaps the only suitable remedy for redressal of the established infringement of the fundamental right to life of a citizen by the public servants and the State is vicariously liable for their acts. The claim of the citizen is based on the principle of strict liability to which the defence of sovereign immunity is not available and the citizen must receive the amount of compensation from the State, which shall have the right to be indemnified by the wrong doer. In the assessment of compensation, the emphasis has to be on the compensatory and not on punitive element. The objective is to apply balm to the wounds and not to punish the transgressor or the offender as awarding appropriate punishment for the offence is left to the competent forum. The relief to address the wrong for the established invasion of the fundamental rights of the citizen, under the public law jurisdiction is, thus, in addition to the traditional remedies and not in derogation of them.

Thus, taking into consideration the entire gamut fact situation of the case, the Commission feels it proper to recommend for providing some financial assistance to the victim for the trauma he had undergone in the hands of Police. Accordingly, the Commission recommends payment of financial assistance of Rs.25, 000/- (rupees twenty-five thousands) to Smt. Laxmi Garada, the mother of the injured boy Rahul @ Sankar Garada since the victim is reportedly a minor.

The Commission also, before parting with the record, would like to observe that the Police Officers of the State needs to be sensitized with regard to the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000 as amended up-to-date and the Rules framed there under, especially the Rule 3, 11 & 12 of the JJ Rules, 2007.

Let copy of this order be communicated to the Principal Secretary to Government,

Home Department, Government of Odisha for furnishing a compliance report with regard to the recommendations made by this Commission including the financial assistance to be provided to the mother of the victim minor boy. Such action taken report is to be furnished within six weeks hence.

Compliance by the Public Authority:

Pursuant to the order dated 21-12-2015 of the Commission, the Addl. D.G of Police, HRPC, Odisha, Cuttack subsequently reported that an amount of Rs. 25,000/- as compensation has been sanctioned and the same has been forwarded to the SP, Koraput for disbursement in favour of Smt. Laxmi Garada, the mother of victim Rahul @ Sankar Garada. Further, Addl. DGP (Trg) and Director, BPSPA reported that Biju Patnaik State Police Academy has been organizing various programmes to sensitize the Police officers of the rank of ASI of Police to DSP on the various provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000 having been sponsored by the Women and Child Development Department since 2009 and the last such training programme was organised on 29-02-2016, where 40 police officers had participated. Accordingly, further proceeding in this case stands closed.

O.H.R.C. CASE NO. :1087 OF 2015

Prabir Kumar Das Petitioner

Order dated: 25th February, 2016

The petitioner is present. I have heard the petitioner over the unfortunate death of Alok Patra, a student of Class-I of Belapada Primary School under Beguniapada Block by drowning in a pond during school hour on 21.01.2015. The petitioner has approached this Commission praying for a fair inquiry into the incident and payment of financial assistance to the tune of 10 lakhs rupees to the bereaved parents. It is also prayed by the petitioner that the State Government may be directed to take adequate preventive measures to ensure the safety of the students especially the schools meant for visually challenged/blind students.



On receipt of the complaint, the Commission called for reports from the Commissioner-cum-Secretary to Government, School & Mass Education Department as well as from the Collector, Ganjam.

The Commissioner-cum-Secretary to Government, School & Mass Education Department in her report has admitted about the death of Alok Patra, a Class-I student of Belapada Primary School under Beguniapada Block, by drowning in a pond on 21.01.2015. It is her specific report that the deceased child left the school after taking mid-day meal i.e. during the school hour leaving the school bag in the class room and as per the report of the Block Education Officer, since the incident took place during school hours, the concerned class teacher Smt. Sanjukta Rath, Asst. Teacher has been placed under suspension and explanation has been called for from the Headmaster and other teachers of the school and disciplinary proceeding is being initiated against them for their negligence. The photo copy of the report of the District Education Officer, Ganjam addressed to the District Collector & Magistrate, Ganjam, Chatrapur very specifically shows that Alok Patra, a student of Class-I of Belapada Primary School under Beguniapada Block died because of drowning on 21.01.2015 during school hour in a pond for which the concerned class teacher Smt. Sanjukta Rath, Asst. Teacher has been placed under suspension. So also explanations have been called for from the Headmaster and other teachers of the school for their negligence.

Admittedly, the dead body of the deceased boy was found floating in the waters of a pond and Belapada Primary School situate on the embankment of the pond. The District Education Officer, Ganjam also has recommended to the District Project Coordinator, Sarva Sikhya Abhiyan, Ganjam, Chatrapur to make provisions for construction of boundary wall around the said school to avoid such unfortunate incident in future.

The suspension order of Smt. Sanjukta Rath, Asst. Teacher, Belapada Primary School reveals that she was placed under suspension for her negligence in duty and the Headmaster of the school as well as the teachers of the school have also been called upon to furnish their explanations for their negligence.

Thus, after perusing the materials on record; it appears that there are overwhelming materials to establish the death of a boy of very tender age namely Alok Patra, a student of Class-I by drowning in a pond during school hour due to the negligence of the class teacher as well as the Headmaster and other teachers of the school.

The Collector, Ganjam has reported that prior to 01.04.2015 sanction of ex-gratia under the State Disaster Relief Fund/National Disaster Relief Fund was not available in case of death caused due to drowning but now the Government has decided that in case of death by drowning, the next of kins of the deceased are entitled to get four lakhs of rupees as monetary assistance and the said order of the Government has been made effective from 1st April, 2015.

The Commission observes that human rights are the basic, inherent, immutable and inalienable rights to which a person is entitled simply by virtue of his being born a human. They are such rights which are to be made available as a matter of right. Constitution and Legislations of civilized country recognize them since they are so quintessentially part of every human being. That is why every democratic country committed to rule of law has put in place mechanisms for their enforcements and protection. Human rights are universal in nature.

In the instant case a boy of a very tender age, a student of Class-I of a school lost his life during school hour and that to after taking his mid-day meal, by drowning in a pond, which is adjacent to the school campus. The consistent report of the Collector, Ganjam and the District Education Officer,



Ganjam reveals that due to negligence of the class teacher, Headmaster and other teachers of the school in taking care of the children reading in the school, such an unfortunate incident could happen.

Thus, it can be safely concluded that the State has failed to protect the life and safety of the children, who are reading in the school. Thus, if a person has been guaranteed certain rights either under the Constitution or under the International Covenant or under a law and he is denied access to such a right, then it amounts to a clear violation of his human right. Deriving jurisdiction vested under Section 12(j) of the Protection of Human Rights Act, 1993, the State Commission by operation of Section 29 of the Protection of Human Rights Act, 1993 enjoys the powers conferred on the National Human Rights Commission i.e. with regard to provisions of Sections 9,10,12,13, 14 to 18, which are also applicable to the State Commission and the State Commission shall have the jurisdiction to enquire into any complaint relating to violation and protection of human rights. Such action would include inquiring into cases where a party has been denied protection of any law to which he is entitled, whether by private party, a public institution, the government or even the courts of law. (Ramdeo Chouhan Vrs. Bani Kant Das, AIR 2011 SC 615).

Thus, taking into consideration the fact that a poor Scheduled Caste student of Class-I died because of drowning in an unguarded and unprotected pond which situate in the premises of the school and when such drowning took place because of the negligence and carelessness of the school authorities and when the State also has failed to discharge its duties in looking to the safety of the students, the Commission recommends to the Government in School & Mass Education Department for payment of monetary compensation to the tune of Rs.2,00,000/- (Rupees two lakhs) to the parents of the deceased boy Alok Patra under Section 18(a)(i) of the Protection of

Human Rights Act, 1993 within two months from the date of receipt of this order.

A copy of this order be furnished to the Commissioner-cum-Secretary to Government, School & Mass Education Department, Odisha, Bhubaneswar and the Collector & District Magistrate, Ganjam for necessary compliance to the recommendations of the Commission within the stipulated period of two months.

OHRC CASE NO. 1850 OF 2013

Smt. Jyotirekha Swain...Petitioner

Order dated: 7th October, 2015

x x x

The petitioner Smt. Jyotirekha Swain, wife of late Sasikanta Mohanty, a resident of A/69, Sailashree Vihar, Bhubaneswar approached this Commission for payment of Rs.5 lakhs as her husband was drowned in Chilika lake near Satpada while coming in a tourist boat along with other tourists on 17-10-2012. According to the petitioner, her husband had gone for a cruise in Chilika lake near Satpada to have a glimpse of the dolphins swimming in Chilika lake. After cruising in Chilika lake when the boat was returning to Satpada jetty, suddenly the boat took a sharp turn, as a result of which Sasikanta Mohanty was thrown of the boat and fell into the waters of Chilika lake and got drowned. Frantic efforts were made to rescue the husband of the petitioner, but the boat operator did not care to rescue the deceased. On getting information about the incident from Brahmagiri Police, the family members of the deceased reached the site in the night. Police conducted a search operation in the morning in the lake and fished out the dead body of Sasikanta Mohanty, the namely the husband of the petitioner. Post-mortem was conducted over the dead body of the deceased. The petitioner sought financial assistance from the local Tahasildar as well as from the District Collector, but they did not listen to that. The petitioner was stunned to here that the boat had no registration number, no insurance and was plying without having the mandatory life



saving equipments in his boat. Police also informed the petitioner that the boat had no fitness certificate, route permit and there was no timing in operation of the boat. Thus, the petitioner could gather that the authorities did not care for the safety and lives of the tourists, who are ignorant of the state of affairs. It is alleged that hundreds of boats are plying without having any registration number, no fitness certificate, no insurance nor having any life saving equipments on boat like life jackets etc. It is also brought to the notice of the Commission that though several such mishaps had occurred, but surprisingly the authorities remain callous and have failed to enforce the mandatory provisions of law before allowing the boats to cruise in Chilika lake carrying tourists.

On receipt of this complaint, report from the Collector & District Magistrate, Puri was sought for by the Commission and also from the Superintendent of Police, Puri. The Collector, Puri in his report dated 3-9-2013 stated that 329 numbers of boats are registered as tourists boats and they carried tourists from different destinations, but unfortunately the boat carrying the deceased Sasikanta Mohanty was not a registered tourist boat. As per the Police report, four numbers of accused persons were arrested and they have released on bail, but the boatman/driver could not be arrested as he had absconded and the boat in question also could not be seized as the same has been concealed somewhere else. On the alleged incident, two cases were registered by Brahmagiri Police, namely Brahmagiri PS case No.226 and 229 of the year 2012. Both the cases were registered under Section 304(A) read with Section 34 of the IPC and also under Section 282 of the IPC and all efforts are on to trace the absconding boatman. The report of the IIC, Brahmagiri PS dated 31-8-2013 reveals that one Asutosh Patra, son of Balamukunda Patra of village Niladri Vihar under Chandrasekharpur PS limits, Bhubaneswar lodged a report at Brahmagiri PS on 18-10-2012 and basing upon that report,

Brahmagiri PS case No.226/2012 under Sections 280 and 304(A) of the IPC was registered relating to the death of one Sasikanta Mohanty, son of Golaka Bihari Patra of GA-169, Sailashree Vihar. Again on the written report of one Durga Prasad Mohanty, son of Golaka Bihari Mohanty of GA-169, Sailashree Vihar on 23-10-2012, Brahmagiri PS case No.229/2012 was registered under Sections 302, 120(B) read with Section 34 of the IPC and investigation was taken up. During investigation, it was ascertained that Brahmagiri PS case No.229/2012 is a true case under Sections 282, 304(A) read with Section 34 of the IPC against accused persons, namely Somanath Mohapatra, Asutosh Patra, Badrinarayan Das, Samarendra Paitala and accused boatman Dinesh @ Swadhin Jalli of Alupatana under Brahmagiri PS limits is liable under Sections 282 and 304(A) of the IPC, but no evidence is coming to substantiate the allegation under Sections 302 and 120(B) of the IPC. In Brahmagiri PS case No.229/2012, accused Somanath Mohapatra, Asutosh Patra, Badrinarayan Das and Samarendra Paitala were arrested on 30-5-2013 at 5:30 pm and were released on bail on the same day as the offences were bailable in nature. But so far accused boatman Dinesh @ Swadhin Jalli is concerned, he could not be apprehended as he had absconded from the village to evade Police arrest and he has concealed the boat in some unknown place to avoid seizure. Sources have been planted to trace out accused Dinesh @ Swadhin Jalli as well as the involved boat. The post-mortem report suggested that the death of the deceased was due to drowning and the drowning was caused as a result of negligent and rash driving of the boatman.

Perused the report of the Collector, Puri dated 1-5-2014 reiterating the facts as has been mentioned earlier with a further addition that awareness campaign has been arranged by the district administration frequently and tourists are being advised not to avail the unlicensed boats. Inland Water Transport



Department and Police have been asked to monitor the licensing of the boats and to check fraudulent activities in the areas. It has also been pointed out by the Collector, Puri that Inland Water Transport Department is the licensing authority in respect of the plying of boats cruising in Chilika lake.

Thus, on analysing the materials on record, namely the report of the Collector, Puri and that of the IIC, Brahmagiri PS, the admitted fact emerges is that the deceased Sasikanta Mohanty, who had gone to visit Satpada on 17-10-2012 along with other tourists and after cruising in Chilika lake, returning to Satpada jetty because of the negligence driving of the boat by its boatman/driver, he fell into the waters of Chilika lake and drowned. His dead body was recovered the next day morning by Police from the waters of Chilika lake. The dead body was sent for post-mortem examination, which has also been admitted by the wife of the deceased. The IIC, Brahmagiri PS reports that the cause of death of the deceased was due to drowning and such drowning was caused as a result of negligent and rash driving of the boatman Dinesh @ Swadhin Jalli. The cases have been registered by Brahmagiri Police over the said unfortunate incident.

The consistent report of the Collector, Puri is that the deceased was cruising in Chilika lake along with other tourists in an unregistered tourist boat. It has been brought to the notice of the Commission that way back in the year 2011 precisely on 7-10-2011 the then Chief Secretary of the State had sent DO letters to all the Collectors of the State vide letter No.FE(Port)-45/11-8093/CS(Commerce) dated 7-10-2011 regarding implementation of various provisions of the Odisha Boat Rules, 2004 to ensure the safety and security of the passengers and cargo on board of boats engaged in Inland Water Transportation work in the State. By quoting Rule 3, 8, 9, 10, 15 and 34 of the Odisha Boat Rules, 2002 which has come into effect from 4-3-2004, the Collectors were instructed

to authorise the Tahasildars at Tahasil level to ensure the effective implementation of the various provisions of the Odisha Boat Rules, 2004 specifically with regard to checking the plying of unlicensed boats within their local limits so that effective measures can be ensured in the matter of safety and security of the passengers dependent in Inland Water Transportation Sector of the State. The Collectors were requested to take timely follow up action on the matter and compliance be reported thereof.

But as it appears that despite enactment of the Odisha Boat Rules, 2004 and the letter of the then Chief Secretary addressed to all the Collectors of the State dated 7-10-2011, the officers concerned both at the cutting edge as well as at the district level much less the Collector of the districts have not woken up from their deep slumber. It is known to the entire world that Satpada under Brahmagiri Tahasil limits in the district of Puri is a tourist destination and everyday hundreds of tourists visit Satpada only to cruise in Chilika lake to see the dolphins. Neither the Tahasildar, Brahmagiri nor the tourist officer, Satpada and much less the district administration kept their eyes shut to the instructions of the Government. Their failure to check plying of unlicensed boats in Chilika lake without having valid registration number and without having boat worthiness certificate and other life saving equipments including life jackets are the reasons, for which at times there are instances where boats meet accidents and capsize in the deep waters of Chilika lake resulting in loss of precious human life and property. In a welfare State, it is the paramount duty of the State to protect the life and safety of its citizens. But in the given case, the report of the Collector, Puri reveals that Sasikanta Mohanty, the deceased along with other tourists were cruising in an unlicensed boat, for which the tragedy took place resulting in loss of life of a valuable citizen of the State. Thus, for the inaction of the instrumentalities of the State, the State is to indemnify the petitioner.



In a similar case, i.e. in the case of the boat tragedy which happened on 9-2-2014 in the Hirakud Reservoir while 114 families of Sambalpur including women and children were returning to Sambalpur from Tilia Ghat under Banharpali PS in the district of Jharsuguda, the boat was overloaded beyond its capacity. The boat was drowned around 4:30 pm, for which 31 persons died. In that incident, the State Government announced ex-gratia of Rs.1.5 lakhs out of the Chief Minister's Relief Fund to be paid to the next of kins of each person died in the incident, which is evident from the affidavit filed on behalf of the State of Odisha in the Hon'ble High Court of Orissa in WP(C) No.2833/2014. The Government in General Administration Department also by its Notification No.18696/CMRF dated 7-8-2012 prescribes financial assistance, i.e. ex-gratia payment to be made in death cases which are not covered under the State Disaster Response Fund (SDRF) and National Disaster Response Fund (NDSF) with effect from 16-6-2012. That notification of the Government says payment of Rs.1.5 lakhs to the deceased in a boat accident (normal time).

Thus, when in this case Sasikanta Mohanty was drowned in Chilika lake and when such an incident took place because the boat had no license and because of the negligence of the boat driver, i.e. the boatman, the petitioner is entitled to be provided with financial assistance, i.e. ex-gratia of Rs.1.5 lakhs under Section 18(a)(i) of the Protection of Human Rights Act, 1993.

Accordingly, copy of this order be sent to the Chief Secretary of the State, Principal Secretary to Government, Revenue & Disaster Management Department, Special Relief Commissioner as well as to the Collector, Puri for compliance of the recommendation of the Commission for providing financial assistance by way of ex-gratia of Rs.1.5 lakhs to the petitioner within two months of receipt of the copy of this order.

Compliance by the Public Authority:

Pursuant to the direction of the Commission, the Collector, Puri has reported that the ex-gratia amounts of Rs. 1.5 Lakhs through SBI cheque bearing No-503827, dated 28-12-2005 has already been disbursed to the petitioner Smt. Jyotirekha Swain. Accordingly, further proceeding in this case stands closed.

O.H.R.C. CASE NO.2100 OF 2012

Smt. Smitarani Mohanty Petitioner
Order dated 1st March, 2016

The petitioner Smitarani Mohanty, a teacher of Ukundeswar Deuli Primary School alleges to have been gang-raped on the evening of 6th April, 2012 by Sukant Kumar Panda, Sarpanch, Dandamundapur Gram Panchayat and his associates. After the incident, the victim was threatened by the alleged accused persons that if she discloses the matter before others then they would eliminate her husband and son. Because of the threat hurled at the victim, she kept her mum, but when her husband could come to know about the gory incident from his wife telephoned Pipili Police but nobody received the call. The victim as usual was attending to her duties in the school. But on 12.4.12, the accused person again entered the school premises and drove out the students and another lady teacher and subjected the victim to physical and mental cruelty and outraged her modesty. The petitioner being shellshocked telephoned her husband and one Nayak Babu from Pipili P.S. and the District Education Officer came and rescued the victim in a naked condition with injuries on her person and sent her for medical treatment. On the same day on 12.4.12, the victim had sent one written complaint to Pipili Police Station under registered post which Pipili Police had received on 16.4.12 as would appear from the AD receipt. But being influenced by the perpetrators of the crime suppressed the FIR for which the petitioner was forced to approach the Hon'ble High Court of Orissa by filing WP (Crl.) 473/2012 whereupon the Hon'ble High Court directed the IIC, Pipili PS



on 18.5.12 to register a case on the report of the petitioner. Accordingly, Pipili Police being forced registered a case vide Pipili PS Case No.234 dated 1.6.12, but sat over the investigation. When there was a news item published in the daily "The Sambad" on edition dated 26.6.12, the S.P., Puri and other senior officers came and enquired about the matter from the victim. The SP, CID (CB), Cuttack had also enquired the matter from her. In spite of all these things, when Police did not nab the alleged accused persons, the said perpetrators of the crime continued to hurl threats to the petitioner to eliminate her and her family members.

The petitioner has further made serious allegation against Pipili Police that though they received her FIR on 16.4.12 but tried to suppress the same and at a very belated stage sent her for medical examination on 5.6.12 and that too after she had undergone two menstrual cycles.

In the premises, the petitioner victim being helpless had sought the intervention of the Commission.

On receipt of the complaint of the petitioner, the Commission called for a report from the S.P., Puri. The SP, Puri got the matter enquired into through the SDPO, Pipili. The SDPO, Pipili has reported that on the written complaint of Smitarani Mohanty which was received through postal dak, the IIC, Pipili PS Shri R.K.Mallick registered Pipili PS Case No.234 on 1.6.12 under Sections 448, 294, 323, 354, 353, 376(g), 506 read with Section 34 of the IPC and directed the S.I. of Police Shri CB Nayak to take up investigation of the case. Later on Shri R.K.Mallick, IIC took charge of the investigation of the case from Shri CB Nayak, S.I. of Police considering the gravity of the case. The victim was sent to the District Headquarters' Hospital, Puri for medical examination on 6.6.12.

The petitioner also filed another petition on 25.6.13 before the Commission highlighting several deficiencies and defects in the police investigation.

It may be made clear here that the points which the victim has raised in her petition dated 26.6.13 with regard to the deficiencies and defects in the police investigation, the Commission cannot decide those things as those are matters to be considered by the competent Court of law during trial. The Commission is only concerned about the failure of Pipili Police in registering a case, if it prima facie disclosed commission of a cognizable offence which is the mandate of law as per the provision of Section 154 of the Cr.PC.

The further report of the SP, Puri dated 13.10.14 reveals that the supervising officer found that it was a true case under Sections 341, 448, 323, 354, 506 readwith 34 of the IPC against accused persons namely, Sadhu Charan Pradhan, Rajkishore Pradhan and Parsuram Malik and Section 376(g) and 294 of the IPC could not be substantiated as there was no evidence against accused Sukant Kumar Panda and Sukant Kumar Swain.

When the Commission after perusing all the materials on record and prima facie observed that Pipili PS did not register a case immediately on receipt of the written complaint from the petitioner by registered post on 16.4.12 and the case was only registered on 1.6.12 after filing of a writ petition and order of the Hon'ble High Court of Orissa vide WP (Crl.) No.473/2012 dated 18.05.2012, the Commission thought it prudent to hear Shri R.K.Mallick, who was IIC, Pipili PS at the relevant point of time and afforded one opportunity to file his response to the report of the SDPO, Pipili.

Shri Mallick in his written response dated 3.11.14 stated that on 12.4.12, he had not received the written complaint sent by the petitioner by registered post about the occurrence which took place on 6.4.12. But it was received by the Lady Constable Saudamini Swain which she had kept on her table for put up in dak. Unfortunately, it was misplaced from the dak file. However, when the



petitioner filed a Writ petition in the Hon'ble High Court vide WP(Crl.) No.473/2012, he searched for the FIR and found it from the bunch of daks kept on the table of the Lady Constable and accordingly, a case was registered on 1.6.14. The said Police Officer in his response further has also mentioned in writing that the Crime Branch, Odisha, Cuttack conducted an enquiry into the matter and on the basis of their report he has been censured by the D.G. of Police, Odisha for delaying in registration of the case.

From the report of the SDPO, Pipili dated 11.10.14 addressed to the SP, Puri, it becomes crystal clear that the written complaint of the petitioner was received by Shri RK Mallick on 12.4.12 but the case was registered on 1.6.12.

The Commission by its order dated 13.3.15 thought it proper to have an independent assessment of the facts on the allegation made by Smt. Smitrarani Mohanty, the petitioner and accordingly, directed Shri A.K.Biswal, Additional S.P. attached to the Investigation Wing of the Commission to cause an enquiry into the allegation of the petitioner and furnish his report within two months. The report of Shri A.K.Biswal, Additional SP of the Investigation Wing of the Commission reveals that Pipili Police did not promptly register the FIR dated 12.12.14 of the petitioner. However, after the direction of the Hon'ble the High Court, Orissa in WP(Crl.) No.473/12 the said FIR lodged by the petitioner was registered only on 1.6.12. It is also reported by the Additional SP that investigation regarding allegation of such a heinous crime like rape has not been handled properly and sincerely to unravel the truth. It has also been mentioned that despite the direction of the Hon'ble High Court of Orissa on 13.1.13 vide WP(Crl.)No.1133/2013 to submit the Final Form, the case was still pending which shows the defiant attitude of Pipili Police in conducting the investigation. Perused the order of the Hon'ble the High Court of Orissa in WP(Crl.)

No.1133/2013 dated 13.1.14. The order reveals that keeping in view the fact that the FIR had been registered on 1.6.12, the investigating officer is directed to take effective steps to complete the investigation and submit the final form, as expeditiously as possible, preferably within a period of three months hence. It was also directed that it is open for the petitioner to approach the S.P., Puri for providing police protection which shall be considered on its own merit and in accordance with law.

The written response furnished by Shri R.K.Mallick to this Commission very candidly establishes the fact that the FIR which was sent by the complainant on 12.04.2012 about the occurrence which was alleged to have taken place on 06.04.2012 and 12.04.2012 the same was received by a lady constable namely Saudamini Swain and was kept on her table for putting up the same before the IIC, Pipili Police Station but it was misplaced from the Dak file but however on receipt of the direction of the Hon'ble the High Court of Orissa in WP(Crl.)No.473 of 2012, he searched for the report and found it from the bunch of Dak lying on the table of the said lady constable and, accordingly, he registered the same and directed the SI of Police, Shri C.B.Nayak to investigate into the case.

Section 154 of the Code of Criminal Procedure, 1973 mandates that if any information discloses commission of a cognizable offence, the said FIR shall be registered.

The Constitution Bench of the Hon'ble the Apex Court while disposing of the Writ Petition (Criminal Appeal No.68 of 2008) in Lalita Kumari Vrs. Government of UP & Others unequivocally propounded that if the information given to Police discloses commission of a cognizable offence, registration of an FIR is mandatory and there is no other option available. The Apex Court also further in the aforesaid case directed that a Police Officer cannot avoid his duty of



registering offence if cognizable offence is disclosed which is the mandate of Section 154 of the Cr.P.C.

Perusal of the record also reveals that the Director General of Police, Odisha in his Office Order No.203/CID(R) dated 27.08.2012 being satisfied that though the written report dated 12.04.2012 of Smt. Smitarani Mohanty, wife of Priyaranjan Das, resident of Dandamukundapur Putua Sahi, PS-Pipili, District-Puri alleging gang rape was received at Pipili Police Station on 16.04.2012 by post but the same was kept pending in the Police Station and the said FIR was finally registered on 01.06.2012 after abnormal delay. The Director General of Police, Odisha after perusing the explanation of Shri Ratnakar Mallick, who was the IIC Pipili Police Station at the relevant period having found the explanation submitted by Shri Mallick unsatisfactory, censured him in service book in accordance with PMR 824(h).

By not registering the FIR lodged by the victim in the instant case, there is a clear violation of the rights of the victim. Burking of crime leads to dilution of rule of law and also has a very negative impact on the rule of law in the long run since people stop having respect for the rule of law.

Thus, non-registration of the FIRs leads to definite lawlessness in the society. Therefore, reading of Section 154 of the Cr.P.C. in any other form would not only be detrimental to the Scheme of the Code but also the society as a whole. It is the trite law that registration of FIR is mandatory if the information given to the Police under Section 154 of the Cr.P.C. discloses commission of a cognizable offence.

Thus, taking an overall view of the fact situation of this case, when admittedly there has been abnormal delay in registration of the FIR, which was received by Pipili Police on 16.04.2012 by post and the written response furnished by Shri R.K.Mallick, the then IIC, Pipili Police Station, the Commission observed that the conduct of Shri Mallick, the then IIC, Pipili Police Station is reprehensible.

Thus, when Shri Mallick being a responsible senior Police Officer in the rank of Inspector In-Charge of the Police Station violated the mandatory provisions of law i.e. Section 154 of the Cr.P.C. and when by such non-registration of the case, the human rights of the petitioner has been violated and Shri Mallick neglected to perform his duties, the same calls for departmental action against him. The Commission further observes that for the mental sufferings the victim/petitioner had to undergo because of the inaction of the Pipili Police for which she had also knocked the doors of the highest Court of the State i.e. the Hon'ble the High Court of Orissa by filing two writ petitions to get justice, the victim/petitioner is required to be compensated by the State by way of extending some compensation.

Accordingly, the Commission recommends to the Government in the Home Department to make pay compensation of Rs.20,000/- (Rupees twenty thousand) to the victim/petitioner Smt. Smitarani Mohanty under Section 18(a)(i) of the Protection of Human Rights Act, 1993 within two months from the date of receipt of this order. It is made clear that the aforesaid amount so paid is to be realized from the salary of Shri Ratnakar Mallick, who was the IIC of the Pipili Police Station at the relevant time.

Copy of this order be sent to the Principal Secretary to the Government, Home Department for necessary compliance of the Commission's order.

Compliance by the Public Authority:

Pursuant to the direction of the Commission, the Superintendent of Police, Puri subsequently reported that the compensation amount of Rs. 20,000/- has been disbursed to the petitioner, Smt. Smitarani Mohanty. It is also reported that Puri District Proceeding No-1/2017 has been initiated against Inspector of Police, Ratnakar Mallik, the then IIC, Pipili PS. Accordingly, further proceeding in this case stands closed.



OHRC CASE NO.2414 OF 2013

Sri Jayaram Panda Petitioner

Order dated: 16th October 2015

Bereft of unnecessary details, the grievance of the petitioner is as follows:

The petitioner had given his elder son Ganesh Panda in marriage to one Rina Kumari Panda, daughter of Sadananda Sahu of Padhi Colony, Aska in the year 2003 and a son was born out of their wedlock. For delivery, Rina Kumari Panda had gone to the house of her parent, but after delivery she expressed her desire to stay in her parental house along with her husband and was unwilling to return to the matrimonial house. Over the said matter, dissension arose in between the couple forcing the husband to institute a matrimonial proceeding in the Court of Judge, Family Court, Berhampur. Several attempts were made in the said proceeding for re-union and reconciliation, but the wife Smt. Rina Kumari Panda was stubborn in her attitude in not joining the society of her husband and refused to come back to her matrimonial house. During the pendency of the divorce proceeding in the Family Court, Berhampur, the wife, namely Rina Kumari Panda, the daughter-in-law of the petitioner filed an FIR under Sections 498(A), 506 read with Section 34 of the IPC as well as under Section 4 of the Dowry Prohibition Act in the month of March 2013 in Aska Police Station against her husband, father-in-law, mother-in-law, sister-in-law and brother-in-law. It is alleged by the petitioner that on 17-3-2013 around 11 to 12 midnight, SI of Police, Sri Rajib Kumar Behera of Aska Police Station accompanied by other Police staff came to his village Solosala and took him and his wife to Aska PS. Subsequently, Police also brought Jhunu Patra, the daughter of the petitioner and her husband Binod Patra to Police Station and they were detained in the Police Station till 21-3-2013 and without proper investigation they were forwarded to the Court. Thus, being aggrieved with the Police action and challenging the arrest by not

following the proper procedure, the petitioner has approached this Commission for appropriate action against the errant Police Officer.

On receipt of this complaint of the petitioner, the Commission called for a report from the Superintendent of Police, Ganjam. The SP, Ganjam in his report dated 21-2-2014 informed the Commission that on the basis of the FIR lodged by Rina Kumari Panda, the wife of Ganesh Panda, Aska PS case No.60 dated 7-3-2013 was registered under Sections 498(A), 506 of the IPC read with Section 34 of the IPC and SI of Police, Sri R.K. Behera was the Investigating Officer in the said case. During investigation, the IO, Sri R.K. Behera arrested the petitioner Jayaram Panda, his wife Kumudini Panda, daughter Jhunu Patra and son-in-law Binod Patra on 21-3-2013 and they were forwarded to the Court. Similarly, the accused Ganesh Panda, the husband of Rina Kumari Panda and Bighneswar Panda, another son of the petitioner were arrested on 2-5-2013, but were released on bail on the same day as per the orders of the Hon'ble High Court of Orissa vide BLAPL No.9666/2013.

The main grievance of the petitioner is that SI of Police, Sri Rajib Kumar Behera arrested him, his wife, daughter and son-in-law on the night of 17-3-2013 around 11 to 12 midnight and they were kept in the Police Station for four days and only on 21-3-2013 without proper investigation being influenced by Rina Kumari Panda and her father, they were forwarded to the Court. To know the truth in the allegation of the petitioner, the Commission called for the entire records in Aska PS case No.60/2013 which was registered against the petitioner and five other family members including his wife, daughter, son-in-law and two sons. Similarly, the Station Diary Book maintained in Aska PS from 17-3-2013 to 21-3-2013 was also called for. Perused the photocopy of the Station Diary Book of Aska PS from 17-3-2013 to 21-3-2013 minutely, but did not get any hint or any material to show that the petitioner along with his wife,



daughter and son-in-law were brought to Aska PS by SI of Police, Sri R.K. Behera on the night of 17-3-2013 and were kept in the Police Station till 21-3-2013. On the other hand, the Station Diary Entry dated 21-3-2013 vide Entry No.414 made at 10:30 am reveals that SI of Police, Sri R.K. Behera along with his staff returned to PS along with the accused persons in Aska PS case No.60/2013 and the accused persons were arrested after informing them the grounds of arrest and Entry No.419 made at 12:45 pm dated 21-3-2013 shows that accused persons were produced before the learned Judicial Magistrate First Class, Aska in Aska PS case No.60/2013. The photocopy of the arrest register maintained by Aska Police reveals that on 21-3-2013 at 9 am the petitioner Jayaram Panda and his wife Kumudini Panda were arrested in Aska PS case No.60/2013 by SI of Police, Sri R.K. Behera. So also Smt. Jhunu Patra and her husband Binod Patra, who are the daughter and son-in-law of the petitioner respectively were arrested at 10 am on 21-3-2013. The photocopy of the Arrest Memo also reveals that the petitioner along with his wife, daughter and son-in-law were arrested on 21-3-2013 at 9 am and 10 am respectively by SI of Police, Sri. R.K. Behera.

Save and except the bald allegation of the petitioner, there is no other corroborating prima facie material before the Commission to show that the petitioner along with his wife, daughter and son-in-law were brought to Aska Police Station on the night of 17-3-2013 and were detained there for four days, i.e. till 21-3-2013 when they were forwarded to the Court.

The IO, Sri R.K. Behera, was heard in person by the Commission and he was given an opportunity to file his written response to the allegations made by the petitioner. In his written response, Sri Behera has stated that he arrested accused Jayaram Panda, Kumudini Panda, Jhunu Patra and her husband Binod Patra on 21-3-2013 at 9 am and 10 am

respectively in connection with Aska PS case No.60 dated 7-3-2013 under Sections 498(A), 506 read with Section 34 of the IPC as well as under Section 4 of the Dowry Prohibition Act and the allegations made against him that he wrongfully detained the accused persons Jayaram Panda and others in the Police Station for four days being influenced by the complainant Rina Kumari Panda are totally concocted and baseless.

Without going into the merits of the case, i.e. in Aska PS case No.60/2013, when the matter is subjudice in the Court of the learned Judicial Magistrate First Class, Aska and when the divorce proceeding is pending before the Judge, Family Court, Berhampur, i.e. Matrimonial Proceeding No.2/2010 filed by accused Ganesh Panda, the son of the petitioner and husband of Smt. Rina Kumari Panda, suffice is to say that here is a case where the Investigating Officer has failed to carryout the mandate of law. Overwhelming materials available on record establishes that the IO, Sri R.K. Behera of Aska PS in Aska PS case No.60/2013 has failed to discharge his duties without caring or without keeping in mind the provisions of Sections 41 of the CrPC. Section 41 of the CrPC has undergone amendment by Act 5 of 2009, i.e. clause (a) and (b) with effect from 1-11-2010, i.e. prior to the registration of Aska PS case No.60/2013. Section 41(a) and (b) of the CrPC reads as follows:

“41 - When Police may arrest without warrant: - (1) Any Police Officer may without an order from a Magistrate and without a warrant, arrest any person-

(a) x x x x x

(b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or



without fine, if the following conditions are satisfied, namely:-

- (i) xx x x
- (ii) the Police Officer is satisfied that such arrest is necessary:-
 - (a) to prevent such person from committing any further offence; or
 - (b) for proper investigation of the offence; or
 - (c) to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or
 - (d) to prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the Police Officer; or
 - (e) as unless such person is arrested, his presence in the Court whenever required cannot be ensured, and the Police Officer shall record while making such arrest, his reasons in writing:

Provided that a Police Officer shall, in all cases where the arrest of a person is not required under the provisions of this sub-Section, record the reasons in writing for not making the arrest.”

In the instant case, against the petitioner and his family members Aska PS case No.60/2013 was registered under Sections 498(A), 506 read with Section 34 of the IPC as well as under Section 4 of the Dowry Prohibition Act. Section 498(A) of the IPC is punishable with imprisonment for three years and fine. Section 506 of the IPC consists of two parts, namely simple criminal intimidation which is punishable with imprisonment for two years or fine or both and is bailable in nature, but if there is threat to cause death or grievous hurt while causing criminal intimidation, the same is punishable with imprisonment for 7 years or fine or both.

From a plain reading of the provisions of Section 41(b) of the CrPC, it is crystal clear that a person accused of offence punishable with imprisonment for a term which may be less than 7 years or which may extend to 7 years with or without fine, cannot be arrested by Police Officer only on satisfaction that such person had committed the offence punishable as aforesaid. Police Officer before arrest, in such cases has to be further satisfied that such arrest is necessary to prevent such person from committing any further offence; or for proper investigation of the case; or to prevent the accused from causing the evidence of the offence to disappear; or tampering with such evidence in any manner; or to prevent such person from making any inducement, threat or promise to a witness so as to dissuade him from disclosing such facts to the Court or the Police Officer; or unless such accused person is arrested, his presence in the Court whenever required cannot be ensured. Law mandates the Police Officer to state these facts and record the reasons in writing which led him to come to a conclusion covered by any of the provisions aforesaid, while making such arrest. Law further requires the Police Officer to record the reasons in writing for not making the arrest.

Section 41(A) of the CrPC also aimed to avoid unnecessary arrest or threat of arrest looming large on accused requires to be vitalised. Section 41(A) of the CrPC as inserted by Section 6 of the Code of Criminal Procedure (Amendment) Act, 2008 (Act 5 of 2009) is relevant in this context, which reads as follows:-

“41-A - Notice of appearance before Police Officer:-

- (1) The Police Officer shall, in all cases where the arrest of a person is not required under the provisions of sub-Section (1) of the Section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible



- information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.
- (2) Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.
 - (3) Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the Police Officer is of the opinion that he ought to be arrested.
 - (4) Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the Police Officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice.”

The aforesaid provisions of law makes it clear that in all cases where the arrest of a person is not required under Section 41(1) of the CrPC, the Police Officer is required to issue notice directing the accused to appear before him at a specified place and time. Law also obliges such an accused to appear before the Police Officer and it further mandates that if such an accused complies with the terms of notice he shall not be arrested, unless for reasons to be recorded, the Police Officer is of the opinion that the arrest is necessary.

In the instant case, there has been flagrant violation of the provisions of Section 41(b) and Section 41-A of the CrPC by the arresting officer, namely SI of Police, Sri Rajib Kumar Behera, the IO in Aska PS case No.60/2013. In the instant case, the petitioner accused Jayaram Panda, is a petty old man aged 78 years as is evident from the charge-sheet. His wife accused Kumudini Panda is aged about 65 years, Smt. Jhunu Patra is

aged about 45 years and accused Binod Patra is 50 years old. The offences charged are not that grave like murder, rape, dacoity nor case under the NDPS Act. The case arose only after filing of a matrimonial proceeding against Smt. Rina Kumari Panda. The Investigating Officer should have been very careful in the matter before arresting accused persons.

The above position of law has been succinctly stated in the case of Arnesh Kumar vrs. State of Bihar and another by the Apex Court and the directions issued by the Apex Court in the said case is very loud and clear. But there can be no excuse for a Police Officer on the pretext that judgment in Arnesh Kumar was delivered only on 2-7-2014 in view of the fact that the amendments to Section 41(a) and (b) of the CrPC, 2003 and Section 41(A) of the CrPC was incorporated and brought into with effect from 1-11-2010. There can be no excuse that the Police Officer concerned does not know the aforesaid provisions of law. The law enforcing agency must remember arrest brings humiliation, curtails freedom and casts scars forever. There is a battle between the law makers and the Police and it seems that Police has not learnt its lesson; the lesson implicit and embodied in the CrPC. The need for caution in exercising the drastic power of arrest has been emphasised time and again by the Apex Court, but has not yielded the desired result. The attitude to arrest first and then proceed with the rest of the investigation is despicable as it has become a handy tool to the Police Officers, who lacks sensitivity or act with oblique motive. The Law Commissions and Police Commission were/are very much concerned to maintain a balance between individual liberty and societal order while exercising the power of arrest.

Thus, it is a fit case where departmental action should be initiated against SI of Police, Sri Rajib Kumar Behera for his failure to comply with the mandatory provisions of law before arresting the petitioner and his family members. Accordingly, the Commission recommends the Superintendent of Police,



Ganjam to initiate action against SI of Police, Sri Rajib Kumar Behera attached to Aska Police Station, who was the IO in Aska PS case No.60/2013 in accordance to the Service Rules.

With the aforesaid observations, the case stands disposed of.

Copy of this order be sent to Superintendent of Police, Ganjam and DIG of Police, Southern Range, Berhampur.

OHRC CASE NO.2782 OF 2014

Petitioner..... Radhakanta Tripathy

The petitioner Sri Radhakanta Tripathy Advocate and Human Rights Activist has enclosed one press clipping of Samaj mentioning death of one Srikant Mohanty due to collapse of school wall. A copy of petition along with enclosure was sent to the DEO Keonjhar for submission of status report about the issue.

Pursuant to the order of the Commission, the District Education Officer, Keonjhar submitted a report. The report of the District Education Officer, Keonjhar dated 06-01-2014 addressed to the Director, Elementary Education, Odisha reveals that over the unfortunatge death of the student Srikanta Mohanty the fact finding committee opined that the accident took place purely because of the poor quality of work and lack of supervision in construction of the toilet on a paltry sum of Rs. 20,000/-. The job was entrusted to one NGO, namely "SANCHAR". A copy of the said letter has also been submitted to the Commissioner-cum-Secretary to Government, School and Mass Education Department.

Therefore, the Commission feels it proper to seek a report from the Commissioner-cum-Secretary to Government, School and Mass Education Department as to whether any ex-gratia amount has been released in favour of the next of kin of the deceased student Srikanta Mohanty, who got killed when the wall of the toilet caved in on him. The Commisisoner-cum- Secretary to Government, School and Mass Education Department was

directed to furnish her report within three weeks hence positively.

Order Dated: 16-10-2015

Perused the letter of the Additional Secretary to Government, School & Mass Education Department wherein it has been reported that following the death of Srikant Mohanty, a student of Class-VII of Ambo U.P.School under Hatadihi Block of Keonjhar district, a sum of Rs.10,000/- was paid to the father of the deceased student out of the Red Cross Fund by the Sub Collector, Anandapur and a further amount of Rs.2,000/- was also paid by the DEO, Keonjhar out of the same Fund. Except payment of Rs.12,000/-, no other financial assistance/ex-gratia has been released in favour of the next of the kin of the deceased student Srikant Mohanty.

The newspaper reporting reveals that the deceased student Srikant Mohanty before attending the prayer class was playing with his friends inside the school premises, the wall of the urinal all of a sudden caved in and the deceased student, who was trapped inside the rubble was seriously injured. Although, the boy was soon taken to Anandapur Sub-Divisional Hospital for treatment, he finally succumbed to the injuries.

The report of the DEO, Keonjhar reveals that the concerned school is a government institution functioning under the control of the School & M.E. Department. The victim boy Srikant Mohanty was reading in Class-VII. As is evident from the joint report of the Block Education Officer and Block Resource Co-ordinator, Hatadihi Block, on the day of occurrence, i.e. on 4.1.14, the deceased boy had been to the toilet along with two other friends. While they were all inside the toilet, a quarrel ensued among them and in the process of pushing each other, the wall of the toilet collapsed on Srikant Mohanty. While the other two boys had narrowly escaped, unfortunately, Srikant Mohanty was badly injured. Immediately thereafter, the school teacher along with the father of the victim



boy had carried him to the hospital and after treatment and advice of the doctor brought the boy to the house. Since the condition of the boy worsened, he was shifted to the SCB Medical College, Cuttack, but unfortunately he passed away on the way. The report further reveals that that poor quality of work of construction of the wall and the lack of supervision during the execution of the said work has contributed to the tragic death of Srikant Mohanty in the school premises.

Admittedly, the death of the boy had occurred due to the collapse of the toilet wall. It is found from the report that the work of construction of the toilet of Ambo U.P. School was entrusted to a NGO named SANCHAR of Ghasipura Block, Keonjhar by the Executive Engineer, RWSS-cum-Member Secretary, DWSC, Keonjhar in the year 2009 at an estimated cost of Rs.20,000/-. The moot question now arises as to who has to pay the compensation to the parents of the deceased boy and what should be the just compensation. Admittedly, the work was to be executed by the engineering organisation of the Rural Development Department, but, in turn, they have entrusted the work to the NGO "SANCHAR" of Ghasipura Block. Apparently, there was total lack of supervision of the work of construction of the School toilet by the Executive Engineer, RWSS, Keonjhar and they simply washed off their hands by shifting the responsibility on the concerned NGO. The most unfortunate part is that the completion certificate of the urinal has been certified by the Headmaster of the School and Dillip Kumar Nayak, Managing Director of SANCHAR NGO which is evident from the joint report of the BRCC and BEO, Hatadihi.

Needless to say, in a welfare state like ours it is the primary duty of the government to secure welfare of the people. Article 21 of the Constitution of India imposes an obligation on the State to safeguard the Right to life of every person. Thus, preservation of human life is of paramount consideration for good

governance. The Hon'ble apex court of India in *Smt. Nilabati Behera @ Lalita Behera-vrs-State of Orissa and others-*, AIR 1993 SC 1960 held that

"a claim in public law for compensation for contravention of human rights and fundamental freedoms, the protection of which is guaranteed in the Constitution is an acknowledged remedy for enforcement and protection of such rights, and such a claim based on strict liability made by resorting to a constitutional remedy provided for the enforcement of fundamental right is distinct from, and in addition to, the remedy in private law for damages for the tort resulting from the contravention of the fundamental right. The defence of sovereign immunity being inapplicable and alien to the concept of guarantee of fundamental rights, there can be no question of such a defence being available in the constitutional remedy. It is this principle which justifies award of monetary compensation for contravention of fundamental rights guaranteed by the Constitution, when that is the only practicable mode of redress available for the contravention made by the State or its servants in the purported exercise of their powers, and enforcement of the fundamental right is claimed by resort to the remedy in public law under the Constitution".

Thus, keeping in mind the established position of law, the Commission is of considered view that the parents of the deceased boy namely Srikant Mohanty are entitled to compensation for the death caused due to the negligence on the part of the State functionary and accordingly, the State is liable to pay the compensation to the next of the kin of the deceased.

It is most heart-rending that the life of a teenager student came to an abrupt end inside his own school premises for no fault of him. Such an untimely death of the victim boy has not only shattered all the hope of his parents of making him a good citizen in life but also made them to suffer throughout



their life as they have lost the support of their son to bank upon at the time of need during the course of their journey in life. In such a situation, neither the RWSS wing of Keonjhar nor the concerned NGO can evade their responsibility which culminated with such a tragic death of the boy. Even though the work was entrusted to the NGO, nothing prevented the RWSS wing to exercise its control over the executing agency in properly carrying out the work. Had this been done, such an unfortunate incident would not have taken place. As mentioned in the report, the poor quality of work coupled with total lack of supervision led to the collapse of the wall which claimed the life of an adolescent without giving any opportunity to prove his worth.

In the circumstances, the Commission recommends to government for making payment of compensation of Rs.3,00,000/- (Rupees three lakhs only) within the meaning of Section 18 (a)(i) of the Protection of Human Rights Act, 1993 for the death of Srikant Mohanty, a student of Class-VII of Ambo U.P. School which is located in an interior pocket of the State.

A copy of this order be sent to the Principal Secretary to Government, Rural Development Department, Odisha, Bhubaneswar and Collector, Keonjhar for necessary compliance within eight weeks on receipt of this order.

Compliance by the Public Authority:

Pursuant to the order of the Commission dated 08-01-2016, the Executive Engineer, RWS&S Division, Anandapur in his letter dated 28-03-2016 has reported that the compensation amount of Rs. 3 Lakhs have been credited in equal share on 04-03-2016 in the account of Sri Budhadaba Mohanty (father) and Smt. Laxmipriya Mohanty (mother) of the deceased student Srikanta Mohanty of Ambo UP School under Hatadihi Block of Keonjhar district.

Thus, when the compensation amount has already been disbursed the next of kins

of the deceased student, the Commission feels that there is no need to continue further in the matter. Accordingly, further proceeding in this case stands closed.

OHRC CASE NO.2953 OF 2015

Petitioner.... Sri Prabir Kumar Das, Advocate

The Petitioner Sri Prabir Kumar Das, Advocate, a resident of 276, Suka Vihar, Bhoi Nagar, Bhubaneswar in the district of Khordha submitted a petition by enclosing a press clipping of "The Sambad" dated 18.7.15. The petitioner has mentioned that one Pankajini Pradhan, daughter of Kabindra Pradhan who was studying in Class-III in Somana Pradhan U.P. School under Balipatna P.S. in the district of Khordha died of snake-bite on 17.7.15 while attending her class. It is further mentioned by the petitioner that the father of the deceased has filed an FIR with the Police stating the fact that due to the negligence on the part of the teachers, the life of her daughter could not be saved although her daughter has immediately informed the teachers of the School about her sudden illness following the snake-bite.

The petitioner has approached the Commission to intervene in the matter and render justice to the bereaved family. The petitioner specifically prays for causing an enquiry into the matter and taking appropriate action on the officials found responsible for such an unfortunate incident. The petitioner also prays that compensation of rupees ten lakhs be paid to the bereaved family and to put in place an effective arrangement to safeguard the lives of innocent students against such type of incidents in future.

In view of the facts narrated above, a copy of the petition along with its enclosure was sent to the Commissioner-cum-Secretary to Government, School & Mass Education Department, Odisha, Bhubaneswar and Collector, Khurda to conduct an enquiry into the matter and submit their respective reports to this Commission within four weeks.



Order dated 22-02-2016

The petitioner Sri Prabir Kumnar Das, Advocate and Human Rights Activist is present. I have perused the report of the Collector, Khurda as well as the petition filed by Sri Das. The petitioner has claimed Rupees Ten Lakhs as compensation to be paid to the members of the bereaved family as they have lost their daughter Pankajini Pradhan a student of class-III of Somana Pradhan Upper Primary School on 17-07-2015 because of snake bite inside the class room. The Collector, Khurda in his report dated 10th December, 2015 has categorically admitted that Pankajini Pradhan, daughter of Kabindra Pradhan, a student of Class-III of Somana Pradhan Primary School while sitting in the class room was bitten by a snake which sneaked into the room through a small hole of the wall of the class room. The girl was immediately rushed to Pipili CHC but when her condition became critical she was shifted to Capital Hospital, Bhubaneswar, but in spite of all attempts and treatment given, the doctors declared her dead. For the unfortunate incident that happened in a class room of a school, an ex-gratia to the tune of Rs.2,00,000/- has been sanctioned by the government and disbursed to the family members of the deceased which the petitioner also admits. The Headmistress of the School in question has also been placed under suspension for her negligence in duty by the Block Education Officer, Balipatna with effect from 21-07-2015.

Mr. Das, the petitioner by drawing the attention of the Commission to the order of the government issued by the Revenue and Disaster Management Department (Special Relief) Govt. of Odisha, dated 1st June 2015 states that the next of kin of the unfortunate girl Pankajini Pradhan should have been paid ex-gratia to the tune of Rs. 4,00,000/- out of the State Disaster Relief Fund as per the government order No-1936. R & DM (SR) dated 1st June 2015. Since such snake bite death took place admittedly on 17-07-2015 i.e. after the commencement of the

government order dated 1st June 2015 which has been given effect from 01-04-2015.

Thus, in view of the above order of the government, the bereaved family members of the deceased Pankajini Pradhan is entitled to ex-gratia to the sum of Rs. 4,00,000/- (Rupees Four Lakhs). Since the letter of the Collector, Khurda reveals that the family of the deceased have already been paid Rs. 2,00,000/- (Rupees Two Lakhs) as ex-gratia the next kin of the deceased are also entitled to get Rs.2,00,000/- (Rupees Two Lakhs) more in compliance to the orders of the government of a Odisha dated 1st June,2015.

Accordingly, the Commission recommends to the Collector, Khurda to pay Rs. 2,00,000/- (Rupees Two Lakhs) more, over and above the amount which they have already been paid, to the family of the deceased within a period of two months hence and a compliance report be submitted to the Commission by 02-05-2016.

Compliance by the Public Authority:

Pursuant to the direction of this Commission dated 22-02-2016, the Collector and District Magistrate, Khurda subsequently reported that ex-gratia to the tune of rupees four lakhs has been paid to Shri Kabindra Pradhan, father of the deceased through account payee cheque and photo copy of the stamped money receipt received by Kabindra Pradhan has also been submitted.

Thus, in view of this full compliance of the Commission's order, the case stands closed.

OHRC CASE NO.3228 OF 2013

Biswajit Patnaik Petitioner

Order Dated: 10-02-2016

The petition dated 5.9.13 which was filed by Shri Biswajit Pattnaik, Journalist of Puri Town before the NHRC, New Delhi with a prayer to give direction to the Chief Secretary, Principal Secretary to Govt., Health & FW Department, Odisha, Bhubaneswar and the Superintendent, SCB Medical College & Hospital, Odisha, Cuttack for providing the



necessary treatment to his wife, who was said to be having diabetes and heart problem was received by this Commission on 19.10.13 for disposal and the matter was placed before the Commission on 24.10.13. The petitioner in his petition alleged that when he took his wife to O & G Department of SCB Medical College & Hospital, Cuttack for treatment, the Associate Professor of the said Department Dr.T.J. Kar sought the expert opinion of the Department of Cardiology before conducting an operation on the patient. In this context, the petitioner also alleged that the behavior of Dr. T.K.Mishra, HOD of the Institute of Cardiovascular Sciences, SCB Medical College & Hospital was highly deplorable and not at all expected of a doctor holding such an important position. The petitioner further alleged that the doctors of the said Medical College & Hospital were not prepared to take any risk in connection with the treatment of his wife.

The Commission in its order dated 24.10.13 has sought for a factual report from the Principal of the SCB Medical College & Hospital, Cuttack. The report and other documents which were received from the Dean & Principal, SCB Medical College & Hospital, Cuttack dated 31.12.13 were supplied to the petitioner for his response, if any.

The petitioner in his response dated 25.9.14 has submitted that when there was continuous bleeding with alarming falling of Hemoglobin, he was at his wit's end as to how to save the life of his wife who was in a precarious condition. Finding no other way, he on 7.9.13 met the Professor Dr.P.K.Pradhan and Dr. Bana Bihari Mishra of the Cardiology Department of the Hi-tech Medical College & Hospital, Bhubaneswar and discussed with them about the health condition of his wife and also showed them the reports of the doctors of the SCB MCH, Cuttack. After going through the reports, the above two doctors advised the petitioner for an ANGIOGRAM of the patient and after the ANGIOGRAM was done, both the doctors had opined that the

patient was found fit for surgery and ANESTHESIA can be administered to her. Thereafter, the petitioner contacted Dr. S.S.Mohapatra, Gynecologist of the said HITECH MCH, Bhubaneswar for conducting the necessary surgery on her wife and accordingly, he admitted his wife in the Hi-tech Medical College & Hospital, Bhubaneswar on 12.9.2013 and with transfusion of five units of blood to the patient, a team of doctors performed the surgery on 16.9.13 and removed the UTRINE FIBROD TUMOR from the uterine of his wife. Following her improvement, she was discharged from the HITECH Medical College & Hospital, Bhubaneswar on 22.9.13. Expressing his satisfaction over the treatment of his wife by the doctors of HITECH Medical College & Hospital, Bhubaneswar, the petitioner has not minced his words to say that when the renowned doctors of the SCB Medical College & Hospital, Cuttack dragged their feet in conducting the surgery on his wife on the plea that she is a heart patient and cardiac clearance is a must and without which surgery cannot be performed, but the doctors of a private hospital could successfully perform the surgery and saved the life of his wife.

The petitioner has also reiterated his allegation that Dr. T.K. Mishra, HOD of Cardiology misbehaved with him on 2.9.13 when he approached him for obtaining necessary clearance for performance of surgery on his wife by the doctors of the O & G Department. The petitioner alleged that after observing the callous attitude of the doctors in the SCB Medical College & Hospital, Cuttack, he took his chances and admitted his wife in a private Medical College & Hospital, Bhubaneswar for her immediate treatment.

Perused the report of Dr. P.C.Mohapatra, Dean & Principal, SCB Medical College & Hospital, Cuttack. It is revealed from the report that Shri Biswajit Patnaik, the petitioner accompanying his wife (the patient) came to the OPD of the Department of O & G on 30.8.13 with a complaint of severe pain in



her abdomen. In the OPD, Dr. T.J.Kar, Associate Professor of O & G examined the patient and carried out different tests along with the treatment. After ultrasonography of the patient was done, a large Uterine Fibroid (a tumour of Uterus) was detected. She was referred to the Department of Cardiology for pre-operational cardiological check up as there was left Ventricular dysfunction of the patient. Dr. C.K.Mishra, Assistant Professor, Cardiology examined her on 2.9.13 and carried out a 2D Echo Cardiography of the patient. The patient was given some medicines. It was explained by Dr. CK Mishra that the surgery for removal of Uterus which was the permanent cure for the patient carries considerable risk to her life as she was not only a diabetic but also a cardiac patient. It is mentioned in the report that Prof. T.K.Mishra, HOD, Cardiology was also consulted and he, after examining the patient advised the treatment on the same line as Dr. C.K.Mishra did. The report further speaks that Prof. T.K.Mishra has categorically denied to have shown any ill-treatment and misbehavior to the patient and her husband as alleged by the petitioner.

Dr.T.K. Mishra, HOD of Cardiology in his letter addressed to the Dean & Principal, SCB MCH, Cuttack vide No.656 dated 18.12.13 has mentioned that he examined the patient and went through the reports produced by her husband and advised her to undergo an Echo Cardiographic examination in the Cardiology Department to confirm her cardiac problem, but after that neither the patient nor her husband came to him with the relevant investigations as advised by him. So there was no question of not taking any risk for operation of the patient concerned. Dr. T.K.Mishra further mentioned that during his brief interaction with the patient, at no point of time, he has misbehaved with the patient's husband as alleged. Dr. T.K.Mishra has also mentioned during his 23 years of service, no complaint of misbehaviour against him has ever been surfaced. He boasts of himself saying that every day he examines several

patients without slightest hint of any misbehavior. Dr. T.K.Mishra has further mentioned that Shri Biswajit Pattanik in his prayer has not mentioned anything against him but wanted admission of his wife for surgical treatment, free of cost.

The Commission has observed that when the petitioner persisted with his allegation of misbehavior against Dr. T.K. Mishra, the latter unequivocally denied the same. The Commission has also observed that the stand taken by Dr. T.K.Mishra that Shri Biswajit Pattanik in his prayer has not mentioned anything against him but wanted admission for surgical treatment of his wife, free of cost is not at all true. It is a fact that there is no such mention in the prayer part of the petition, but the petitioner has clearly mentioned in his petition that *"the behavior of Dr. T.K.Mishra, HOD, Institute of Cardiovascular Sciences, SCB Medical College is very rough to a heart patient and he using the language to the patient which should not expect from a senior doctor. As a senior doctor and HOD of the ICS (Cardiology Department) should behave courteously and politely to the patient, but said T.K.Mishra behaviour is very worst."* Thus, the stand taken by Dr. TK Mishra is not tenable.

Although the comments of the Principal Secretary to Govt., Health & FW Department, Bhubaneswar was sought for specifically on two points viz; (i) general behavior of Dr. T.K.Mishra, Head of the Department of Cardiology, SCB MCH, Cuttack and (ii) the tortuous procedure adopted by the said Medical College & Hospital for obtaining clearance from different Departments by the patient concerned or his/her attendants before conducting an operation on the patient, he did not furnish any comments despite series of reminders. However, the Deputy Secretary of the Health & FW Department submitted a report vide letter No.16263/H dated 27.7.15, a copy of which was made available to the petitioner for obtaining his response on the report, if any.



The Commission expects that when the Principal Secretary of a Department of Government is called upon to furnish a report, on the ground of propriety the same should be done by the concerned authority and not through a junior level officer of the Department.

Perused the report of the Deputy Secretary to Govt., Health & FW Department. There was no specific comment on the general behaviour of Dr. T.K. Mishra, HOD of Cardiology in the report of the Deputy Secretary, H & FW Department except that what Dr. T.K.Mishra has said about himself in his letter addressed to the Dean & Principal, SCB Medical College & Hospital, Cuttack. Similarly, there is no specific comment with regard to the point No.(ii). However, it has been mentioned in the report that SCB Medical College & Hospital, Cuttack being a government hospital, treatment is open to all the patients of the State. Accordingly, the wife of the petitioner is free to get the treatment in the hospital and all the best treatment available will be provided to her. But, treatment, free of cost is only provided to the poor patients if they fulfil the eligibility criteria as prescribed by the government.

The petitioner again appeared before the Commission on 5.10.15 and submitted his response to the report of the Deputy Secretary, Health & FW Department, Bhubaneswar. The petitioner in his response, in the first place, has expressed his resentment that when the Commission has specifically asked for a report from the Principal Secretary to Government, H & FW Department, a report was received from a subordinate official and that too after a slew of reminders. The petitioner has categorically stated that Health Secretary without giving his specific comments on the point No.(i), the Deputy Secretary has simply submitted a report of the Dean & Principal which was very much available with the Commission and himself. The petitioner has prayed that the report of the Deputy Secretary,

H & FW Department being baseless should be rejected. The petitioner has harped on taking appropriate action against the erring doctors who have harassed the petitioner and was found negligent in performance of duties. The petitioner also prayed for payment of compensation.

It needs no emphasis that not only the people of the State but others from the neighbouring States as well prefer to come to the SCB Medical College & Hospital, Cuttack to avail of the sophisticated treatment for critical health problems as all kinds of infrastructural facilities are available there. Needless to say, when a person suffers from any health problem, he or she is bound to take the help of a doctor. As a matter of fact, in the eyes of the patients, the doctors are not simply human beings, they are the angels of God on earth who have alone the power to save the lives of the patients from the jaws of death. It is an undeniable fact that people repose tremendous faith and confidence on the doctors as they believe that their lives are safe in their hands. Since the relationship between the doctors and their patients is symbiotic and perpetual, it is difficult to imagine a situation how one can do without the other.

Since the petitioner first took his wife to the SCB Medical College & Hospital, Cuttack with all hope of getting proper medical treatment, he did not in the least imagine that he would be facing such a crummy situation. Generally, the patients, or for that matter their relatives/attendants always expect a good gesture from the doctors and others who are in the job of providing treatment and care to the patients. In the given situation, a few words of comfort and empathy would have definitely created a lasting impression in the minds of the petitioner that he has come to the right place and the right person for the treatment of his wife. In any case., the petitioner being disappointed with the behaviour and attitude of Dr.T. K. Mishra,



HOD of Cardiology chose to approach a private Medical College & Hospital in Bhubaneswar for immediate treatment of his wife.

The Commission has no hesitation to believe that some wrong must have occurred somewhere, otherwise the petitioner would not have so vehemently expressed his anger and dissatisfaction over the inappropriate behavior of the concerned doctor.

The Commission with a view to putting an end to this unhappy situation once and for all expects that the doctors who are always held in high esteem in the eyes of the patients should take abundant care to preserve their image and reputation and should deal with the patients and their attendants in a more helpful way so that a healthy relationship would be established between the doctors and patients and the doctors would continue to enjoy the respect and admiration of their patients for all time to come.

The Commission is not the authority to decide as to why information could not be supplied to an applicant under the RTI route by the public authorities. The RTI Act is a self-contained Act to deal with such type of allegation. Hence, the Commission refrains from interfering in such a matter.

The Commission expects that the observations made above are to be taken by the medical fraternity in right spirit and perspective.

A copy of the order be sent to the Principal Secretary to Govt., Health & FW Department, Odisha, Bhubaneswar and the Principal & Dean, SCB Medical College & Hospital, Cuttack for appropriate follow-up action so that a healthy and conducive atmosphere is created in the Hospital and the patients or their attendants do not have a cause to point their accusing finger at the healthcare system of the State as also at the persons who are tasked with the responsibility of providing proper and timely treatment to the patients.

A copy of this order also be sent to Prof. (Dr.) T.K.Mishra, HOD of Cardiology, SCB Medical College & Hospital, Cuttack for guidance.

With the aforesaid observation, the case stands disposed of.

OHRC CASE NO. 3691 OF 2012

Parsuram Sahoo Petitioner

Order dated 9th October 2015

The petitioner has approached this Commission for monetary compensation because of the alleged negligence of the doctors of the O&G Department of District Headquarters Hospital, Puri in proper treatment of his daughter-in-law Sarojini Sahoo, who was admitted into the said District Headquarters Hospital on 31.10.2012 for her delivery. It is alleged that because of the faulty treatment and negligence while performing surgery of post-operative period, the petitioner had to spend huge sum of money to save the life of his daughter-in-law.

The admitted facts of the case is that Sarojini Sahoo, the daughter-in-law of the petitioner was admitted into the District Headquarters Hospital, Puri on 31.10.2012 for delivery and on that day, a baby girl was born through caesarean section. As per the advice of the doctor, the baby was referred to SCB Medical College & Hospital, Cuttack. Thus, the baby and the mother were taken to SCB Medical College & Hospital, Cuttack in a government ambulance on 06.11.2012. The treating doctors after examining the baby, found her condition satisfactory and advised the son of the petitioner and the mother of the baby to come after two weeks. They also advised that since the condition of the mother is not good, she should be treated in the District Headquarters Hospital, Puri. Accordingly, the patient Sarojini and her baby girl returned back to Puri and got re-admitted in the Gynecology Ward on 06.11.2012 and was allotted bed no.261 and while being treated in the District Headquarters Hospital, Puri, the patient complained of



severe pain in her abdomen for which Bharat, the husband of the patient and the son of the petitioner contacted Dr. Radhanath Tosh, Sr. Specialist in O&G attached to the District Headquarters Hospital, Puri and reported about the ailment of Sarojini but Dr. Tosh without providing any treatment said that government hospital is not a nursing home and if they desire, they may stay in the government hospital or else can proceed elsewhere, which inflicted great mental torture to the patient as well as to her attendants. When the pain become unbearable, on 11.11.2012, Dr. Tosh examined the wound for dressing and found that there was severe infection causing "burst abdomen" and the patient should be taken to Cuttack. When the husband of the patient expressed his inability because of his poor financial condition, Dr. Tosh called the ambulance and after discussing with the driver, forced Bharat to remove his wife to Cuttack and while they were proceeding to Cuttack, enroute the driver advised Bharat to get his wife admitted in Sparsh Hospital, Bhubaneswar, without going to Cuttack and, accordingly, the driver of the ambulance got Sarojini admitted in Sparsh Hospital, Bhubaneswar. On getting the said information, the petitioner arrived at Sparsh Hospital on 12.11.2012 and finding the condition of her daughter-in-law very serious and after hearing the entire episode, requested the doctors in the Sparsh Hospital to discharge the patient so that he can take his daughter-in-law to another hospital. The doctors of Sparsh Hospital taking pity on the petitioner, returned the fees, which they had collected towards treatment of the patient and, accordingly, the petitioner brought his daughter-in-law to Hi-tech Hospital, Bhubaneswar and got his daughter-in-law admitted there, where another surgery was performed and the petitioner was to spent one lakh thirty-five thousand rupees by mortgaging his homestead land and cultivable lands. The petitioner alleges that on 19.11.2012, he had met the Chief District

Medical Officer, Puri but the said CDMO adopted dilatory tactics for which the petitioner was forced to bring his daughter-in-law to his house on 29.11.2012. Under the circumstances, the petitioner claiming to be a poverty stricken man, who ekes out his living as a daily labourer, has approached this Commission for appropriate compensation for the financial loss he incurred due to the careless and negligent treatment of his daughter-in-law, especially in the hands of Dr. R.N.Tosh, Sr. Specialist in O&G attached to the District Headquarters Hospital, Puri. The petitioner again on 24.05.2013 approached this Commission and while reiterating his earlier allegations, further raised the point that though his new born grand-daughter was not having jaundice but on 06.11.2012, doctor of the District Headquarters Hospital, Puri referred the case to the SCB Medical College & Hospital, Cuttack thereby putting him and the patient as well as the baby to great hardship for which the condition of his daughter-in-law deteriorated leading to "burst abdomen". He also alleges interpolations in the discharge certificate, which was issued on 06.11.2012 and the unholy nexus between Dr. Tosh and the ambulance driver for which instead of his daughter-in-law being taken to SCB Medical College & Hospital, Cuttack, was dropped at he Sparsh Hospital, Bhubaneswar. Accordingly, the petitioner prays for a full-fledged inquiry into the matter and payment of compensation to him for the financial loss incurred by him.

The CDMO, Puri was asked to enquire into the matter and furnish a report. In his report, the CDMO, Puri states that Smt. Sarojini Sahoo, wife of Bharat Chandra Sahoo of Kuapada under Brahmagiri Police Station limits in the district of Puri was admitted into the O&G Ward of District Headquarters Hospital, Puri on 31.10.2012 at 9.40 AM vide Indoor Patient Department No.21394 dated 31.10.2012. Dr. Radhanath Tosh, Sr. Specialist in O&G was treating the patient and he performed the LSCS on 31.10.2012 and a living female child was delivered. The baby



of the patient was referred to SCB Medical College & Hospital, Cuttack from SNCU of the District Headquarters Hospital, Puri and, accordingly, on the 7th post-operative day i.e. on 6th November, 2012 the patient along with her kid left for SCB Medical College & Hospital, Cuttack. In the circumstances, stitches could not be removed from the wound of the patient. On 06.11.2012 at 9.10 PM again Sarojini Sahoo was admitted to District Headquarters Hospital, Puri vide Indoor Registration No.22030 dated 06.11.2012. As the patient travelled 200 kms. to and fro, she was under the treatment of the O&G Specialist upto 10.11.2012. On 11.11.2012, Dr. S.B.Patnaik, Gynaecologist on Call, treated the patient at 4.30 PM and for recovery of wound dehiscence, he referred the patient to SCB Medical College & Hospital, Cuttack for better management. The CDMO, Puri had enclosed the report of Dr. R.N.Tosh, O&G Specialist as well as the written statement of the ambulance driver and the inquiry report of the ADMO (Med/TB), Puri.

Dr. Radhanath Tosh denied the allegation of the husband of the patient that when he examined the patient, she was not complaining of pain and he never advised to take his wife to a nursing home. He also denied the fact that when the wound was examined by removing the dressing, Bharat, the husband of the patient was not present and he never advised Bharat that because of the severe infection in the abdomen of the patient, she should be immediately removed to Cuttack and denies to have referred the patient to Cuttack and also denies to have any discussion with the driver of the ambulance vehicle. His specific plea is that, he was not present and did not refer the patient to SCB Medical College & Hospital, Cuttack.

The ambulance driver, Shri Akhay Kumar Das, who had removed the patient in the ambulance bearing registration no.OR-13E-4704 at 5.30 PM denies to have any discussion with Dr. Radhanath Tosh. He also denies to

have taken the wife of Bharat to Sparsh Hospital. He specifically states that he had dropped the patient in the delivery casualty of SCB Medical College & Hospital, Cuttack as per the referral slip and the allegations made against him are totally false. The ADMO (Med/TB), Puri in his report states that the allegations made by Parsuram Sahoo about the negligence in the treatment of his daughter-in-law to be completely imaginary and baseless. He also further mentioned in his inquiry report that on verification of the written statement of the driver and the log book of the vehicle, the patient was taken to SCB Medical College & Hospital, Cuttack and dropped there.

Perused the photo copy of the bed-head ticket of Smt. Sarojini Sahoo, who was admitted into the District Headquarters Hospital, Puri on 31.10.2012 at 9.40 AM maintained upto 05.11.2012, which shows that Bharat Chandra Sahoo gave an endorsement in the bed-head ticket of his wife that he received the discharge certificate at 9.45 AM on 06.11.2012. Perused the photo copy of the bed-head ticket of the patient Sarojini Sahoo, who was again admitted into the District Headquarters Hospital, Puri on 06.11.2012 at 9.10 PM and i.e. 11.11.2012 that was maintained till 4.30 PM of 11.11.2012. On that day, the patient was referred to SCB Medical College & Hospital, Cuttack and the referral slip was received by the son of the petitioner, Bharat Chandra Sahoo on 11.11.2012 at 5.18 PM. Perused the discharge certificate of SCB Medical College & Hospital, Cuttack in respect of the baby of the Sarojini Sahoo which shows that the baby was admitted on 06.11.2012 in the new born ward of 2nd unit and she was discharged on 07.11.2012 by Prof. Dr.S.N.Parida.

The Commission after having all those materials on record, directed the Director of Investigation of the Commission to get the matter enquired into by one of the Officers under his control and submit report. Accordingly, the Director of Investigation,



directed Shri K.K.Padhi, the then Addl. SP attached to the Investigation Wing to enquire into the matter and submit his report. Mr. Padhy submitted his report but the Commission not being satisfied with the said report did not accept the same and requested the Director, Investigation to get the matter investigated afresh by any other Officer and, accordingly, Shri P.K. Tripathy, DSP, attached to the Investigation Wing was entrusted with the inquiry. Shri Tripathy conducted a detailed inquiry and furnished his report, wherein while admitting the pitiable condition of the patient and her attendants stated that the patient was treated several times at different hospitals and for "burst abdomen", the patient was referred to the SCB Medical College & Hospital, Cuttack but ultimately the patient was admitted into the Hi-tech Hospital, Bhubaneswar for her better treatment by her father-in-law where she recovered from her illness. The report further specifically shows that the log book of the ambulance driver reveals that he had dropped the patient at the SCB Medical College & Hospital, Cuttack but why he violated the orders and dropped the patient at Sparsh Hospital, Bhubaneswar, the reason is best known to him. In his conclusion, the Deputy Superintendent of Police, Shri Tripathy is of the opinion that the petitioner probably, with a view to get compensation, filed this petition before the Commission, as he had spent lot of money in the Hi-tech Hospital and since he is a BPL Card holder, his prayer for compensation can be considered. After perusing the entire papers on record and after hearing the petitioner as well as the treating doctors in person and perusing their written responses, one fact becomes crystal clear that the patient was referred to SCB Medical College & Hospital, Cuttack on 11.11.2012 for better and specialized treatment i.e. in a referral hospital like SCB Medical College & Hospital, Cuttack for "burst abdomen". But the patient was taken to Sparsh Hospital, Bhubaneswar by her husband Bharat Sahoo on the plea that the driver of the ambulance advised him to get his wife admitted into the Sparsh Hospital

as the condition of his wife was serious. This explanation appears not convincing. If the petitioner was not satisfied with the treatment at the Sparsh Hospital, he could have on the next day i.e. on 12.11.2012 or even on 11.11.2012 instead of getting his daughter-in-law admitted into Hi-tech Medical College & Hospital, Bhubaneswar, could have removed his daughter-in-law to SCB Medical College & Hospital, Cuttack. The petitioner, who appears to be an innocent and poor person before the Commission, admitted and gave in writing that when he saw the condition of his daughter-in-law very precarious in Sparsh Hospital, he contacted his fellow villagers, one of whom advised that Hi-tech Hospital is a very good hospital, where one such burst abdomen case was properly handled and, accordingly, he being unaware of the things in the SCB Medical College & Hospital, Cuttack and since it is a big referral hospital, he found it convenient to admit his daughter-in-law to Hi-tech Medical College & Hospital, Bhubaneswar. Admittedly, Hi-tech Medical College & Hospital, Bhubaneswar is a private hospital. Having said all that, the fact remains unchallenged that Dr. R.N.Tosh, the Specialist in O&G attached to the District Headquarters Hospital, Puri in his written response to the Commission on 26.06.2015 has stated that on 31.10.2012, the patient Sarojini Sahoo was admitted to District

Headquarters Hospital, Puri by Dr. S.B.Patnaik and he (Dr.Tosh) performed surgery i.e. the cesarean section, as he was on GOC (Gynaecologist on Call) on that day. During operation, it was found that there was a cricket ball size fibroid in the uterus. After cesarean section and after delivery of a female living child, the patient was kept in the post-operative O&G Ward. As per the duty pattern, he including two other doctors were on duty on rotation basis and visited the ward of the patient Sarojini Sahoo till 06.11.2012 as on 06.11.2012, the baby appears to have developed jaundice, the case was referred to the SCB Medical College & Hospital, Cuttack on 06.11.2012 but on the same day on



request, she was discharged. Accordingly, the mother of the baby returned back to District Headquarters Hospital, Puri on 06.11.2012 and the mother was again admitted. On 07.11.2012, Dr. S.B.Patnaik removed the alternative stitches of the patient Sarojini Sahoo. Her general condition was fair. The patient was examined daily by O&G Specialists, who were on duty till 11.11.2012. Since there was slight serosanguinous discharge from the wound of the patient, dressing was done regularly with administration of antibiotics. On 11.11.2012 afternoon, Dr. S.B. Patnaik, who was on duty, telephoned Dr. Tosh that the patient developed burst abdomen. So she was referred to SCB Medical College & Hospital, Cuttack for better treatment. According to Dr. Tosh, there was no negligence in the treatment of the patient Sarojini Sahoo in the District Headquarters Hospital, Puri and there was no complain by the patient and his attendants.

Dr. Suvendu Bikash Patnaik, O&G Specialist attached to the District Headquarters Hospital, Puri in his written response on 26.06.2015 stated that he had admitted the patient Sarojini Sahoo on 31.10.2012 at 9.40 AM into the labour room. It was a case of Primigravida with post dated pregnancy and she was advised for cesarean section. Accordingly, with the consent of the patient and her husband, Sarojini had undergone LSCS operation and the surgery was performed by Dr. R.N.Tosh, who was on GOC on duty and the patient delivered a living female baby at 12.36 PM on 31.10.2012. Post recovery was uneventful and the patient and the baby were being seen by the O&G Specialist on duty. Since the baby developed jaundice, on the advice of the Paediatric Specialist, she was referred to SCB Medical College & Hospital, Cuttack along with the baby with discharge on request on 06.11.2012. The patient and the baby returned back from Cuttack and were again admitted to O&G Ward. On 07.11.2012, he had gone to O&G Ward in round and removed her alternative stitches. Her general condition was fair and the wound

was healthy. She was seen by the O&G Specialist on duty daily and dressing was done. On 11.11.2012 at 4.30 PM while he was on emergency duty, got call from the staff nurse on duty and attended her and found that there was "burst abdomen" and the intestine of the patient was protruding out with purulent discharge for which he immediately consulted Senior O&G Specialist, Dr. R.N.Tosh and as per his advise, referred her to SCB Medical College & Hospital, Cuttack after proper dressing with tight sterilized bandage of the wound for better management. The husband of the patient received the referral slip at 5.18 PM on 11.11.2012 for shifting his wife to SCB Medical College & Hospital, Cuttack. Dr. Patnaik denies the allegation of any negligence in the treatment of the patient Sarojini Sahoo. His plea is that for better treatment and to save the life of Sarojini, she was immediately referred to SCB Medical College & Hospital, Cuttack.

On going through the entire case record and examination of the bed-head ticket of the patient Sarojini Sahoo, District Headquarters Hospital, Puri, it seems something very strange that a patient, who had undergone LSCS was treated in the District Headquarters Hospital, Puri from 31.10.2012 till 06.11.2012 and from 06.11.2012 night till 11.11.2012, when the patient was referred to the SCB Medical College & Hospital, Cuttack with burst abdomen.

Medical Science has advanced to a great extent. New technologies have been discovered and in some cases patients going through cesarean section are being discharged from the hospital within 4 to 5 days and at best on the 6th or 7th day. But here is a case in which Sarojini Sahoo was treated till 11.11.2012 and Dr. R.N. Tosh, who is the O&G Specialist attached to the District Headquarters Hospital, Puri in his response dated 26.06.2015 states that on 07.11.2012 Dr. S.B.Patnaik removed the alternative stitches of the patient and the general condition of the patient was fair but she was examined daily and dressing of the wound was done



regularly and when there was Serosanguinous discharge, she was given anti-biotics and ultimately as a burst abdomen, the patient was referred to SCB Medical College & Hospital, Cuttack for better management. Dr. Suvendu Bikash Patnaik, O&G Specialist, District Headquarters Hospital, Puri also in his written response dated 26.06.2015 admits that on 07.11.2012 while he was in round duty, removed the alternative stitches from the wound of Sarojini Sahoo. Removal of the alternative stitches and not all the stitches gives an indication that the wound had not been totally healed up. It is uncontroverted that the patient Sarojini Sahoo was admitted into District Headquarters Hospital, Puri on 31.10.2012 at 9.40 AM for her delivery. A female child was delivered through LSCS process at 12.36 PM on 31.10.2012. The female child was referred to SCB Medical College & Hospital, Cuttack as she developed jaundice. The mother and the baby again returned back to District Headquarters Hospital, Puri and the mother Sarojini Sahoo was readmitted into the District Headquarters Hospital, Puri on 06.11.2012 at 9.10 PM, which is evident from the photo copy of the bed-head ticket vide Regd. No.4638 dated 06.11.2012. The said bed-head ticket shows removal of alternate stitches on 07.11.2012 but the bed-head ticket completely remains silent as to what was the condition of the patient after removal of the alternate stitches on 07.11.2012 and also on 8th and 9th November, 2012. There is no corresponding entry have been made in the bed-head ticket on those dates rather the date 09.11.2012 scored through and date 10.11.2012 has been mentioned to show that the patient is doing well, dressing done. Only at 4.30 AM of 11.11.2012, it was found that the patient has wound dehiscence and intestine protruding. These entries in the bed-head ticket unerringly point to the fact that the patient was not being properly attended to after her readmission into the District Headquarters Hospital, Puri on the night of 06.11.2012 and that too after removal of the alternate stitches leading to burst abdomen.

Thus, without further delving into the matter, prima facie materials are there to show that Sarojini Sahoo had not received proper attention and medical care when she was readmitted into the District Headquarters Hospital, Puri and that too after the alternate stitches were removed on 07.11.2012, she was left unattended till 10.11.2012. The culpability of the doctors of the O&G Department attached to District Headquarters Hospital, Puri cannot be ruled out altogether.

Thus, taking into consideration the entire gamut of fact situation involved in this case, for the gross negligence on the part of the doctors of the O&G Department attached to District Headquarters Hospital, Puri for the pain and sufferings undergone by the patient Sarojini Sahoo and the trauma undergone by her entire family, the patient is entitled to be compensated by the State for the negligence of its instrumentalities.

The Commission, accordingly, recommends the Government in the Health & Family Welfare Department to pay monetary compensation of Rs.50,000/- (Rupees fifty thousand) under Section 18(a)(i) of the Protection of Human Rights Act, 1993 to the victim/patient Sarojini Sahoo, daughter-in-law of the petitioner Parsuram Sahoo.

Copy of this order be sent to the Commissioner-cum-Secretary to the Government, Health & Family Welfare Department to arrange payment of the above monetary compensation amount of Rs.50,000/- to the victim/patient within eight weeks of receipt of this order and report compliance.

Compliance by the Public Authority:

Pursuant to the direction of the Commission, the Principal Secretary, Health & Family Welfare Department has subsequently reported that the compensation amount of Rs.50,000/- has been paid to the victim Smt. Saronini Sahoo, the daughter-in-law of the petitioner, Parsuram Sahoo. Accordingly, further proceeding in this case stands closed. ■■



CHAPTER - 5

COMPENSATION AWARDED DURING 2015-16

As mandated under section 18 (a) (i), authorities. The details of the Compensation/ relief awarded during 2015-16 are indicated below :

the Commission recommended Compensation/ relief to the victim or the members of his/ her family to be paid by different Government

| Sl No | Case No | Name of the Petitioner Suo-Motu | Date of Award | Award Amount | Cause of Violation | Compliance by Public Authority |
|-------|---------|---------------------------------|---------------|----------------|---|--|
| 1 | 2965/13 | S. Pradhan | 03-08-15 | Rs. 25,000/- | To be paid to petitioner due to torture on her by police of Lingaraj PS, OldTown Bhubaneswar. | Now the operation of order dated 03-08-2015 passed in instant case has been stayed by the Hon'ble High Court of Orissa in WP (C) No.1869/16. |
| 2 | 1850/13 | J.R Swain | 07-10-15 | Rs. 1,50,000/- | Petitioner to get ex-gratia of Rs. 1,50,000/- due to drowning of her husband Sashikanta Mohanty in Chilika Lake on 17-10-2012. | The compensation amount Rs.1, 50,000/- has been paid to the petitioner Jyoti Rekha Swain by the Tahasildar, Brahmagiri. |
| 3 | 3691/12 | Parsuram Sahoo | 09-10-15 | Rs. 50,000/- | To be paid to victim/patient Sarojini Sahoo, daughter-in-law of the petitioner due to negligence in medical treatment by District Headquarter Hospital, Puri. | The amount of the compensation has already been paid to victim Sarojini Sahoo by the CDMO, Puri. |
| 4 | 2782/14 | R.K Tripathy | 16-10-15 | Rs,3,00,000/- | To be paid to parents of the deceased boy Srikanta Mohanty due to collapse of school walls. | The compensation amount has already been paid to the Parents of the deceased boy by the Executive Engineer, RWS & S Division, Anandapur. |



| Sl No | Case No | Name of the Petitioner Suo-Motu | Date of Award | Award Amount | Cause of Violation | Compliance by Public Authority |
|-------|---------|---------------------------------|---------------|----------------|---|--|
| 5 | 1018/15 | B. Kanungo | 21-12-15 | Rs. 25,000/- | To be paid to Smt. Laxmi Garada, the mother of injured boy, Rahul @ Sankar Garada, who was brutally tortured by Laxmipur Police under Koraput District. | The compensation amount has already been paid to the mother of the victim by S.P, Koraput. |
| 6 | 43/15 | D.K Das | 04-02-16 | Rs.2,00,000/- | The amount to be paid to the widow/next of the kin of the deceased Duryodhan Swain due to his death by fall of a live electric conductor on him on 07-11-14. | The compensation amount has already been paid to Smt. Gayatri Swain, wife of late Duryodhan Swain by the Executive Engineer, Balugaon Electrical Division. |
| 7 | 2953/15 | P.K Das | 22-02-16 | Rs.2,00,000/- | To be paid to family of the deceased Pankajini Pradhan, due to snake bite in the class room of Somana Pradhan U.P School under Balipatna PS limits. | The compensation amount has already been paid by the Tahasildar, Balipatna. |
| 8 | 1087/15 | P.K Das | 25-02-16 | Rs. 2,00,000/- | The compensation amount to be paid to the parents of the deceased boy Alok Patra, a schedule caste student of class-1 died because of drowning in an un guarded and un protected pond which is situated in the premises of Belpada School under Beguniapada Block of Ganjam District. | The compensation amount has not yet been paid by the Commissioner-cum- Secretary to Government School and Mass Education Dept. A report has been called for in this regard. Case posted to 21-07-2017 for compliance of the order of the Commission dt 25-02 2016. |
| 9 | 2100/12 | S. Mohanty | 01-03-16 | Rs.20,000/- | The compensation amount to be paid to the victim/petitioner Smt. Smitarani Mohanty due to harassment by the police of Pipili Police Station. | The amount has already been paid to the victim Smt. Smitarani Mohanty by SP, Puri. |





CHAPTER - 6

DETAILS OF SANCTIONED AMOUNT TOWARDS GRANTS / FINANCIAL ASSISTANCE TO ORGANISATIONS / INSTITUTIONS FOR THE YEAR 2015-16

Information, Education and Communication Activities in the State.

During the year 2015-16, Odisha Human Rights Commission, Bhubaneswar had taken

the initiative of creating awareness about Human Rights issues and subjects among different NGOs & Institutions by releasing grants as mentioned below.

| Sl. No. | Name of the Organisation / Institutions | Amount released |
|---------|---|----------------------|
| 1 | Indian Institute of Public Administration, Unit-1, Bhubaneswar. | Rs. 20,000/- |
| 2 | Citizen's Forum for Human Rights, Bhubaneswar. | Rs.25,000/- |
| 3 | Biju Pattnaik State Police Academy, Bhubaneswar. | Rs. 1,05,000/- |
| | Total | Rs,1,50,000/- |





CHAPTER - 7

COMMISSION OBSERVES WORLD HUMAN RIGHTS DAY

Commission observed the World Human Rights Day on 10th of December, 2015. Hon'ble Shri Justice Arijit Pasayat, Former Judge of Hon'ble Supreme Court of India was the Chief Guest and Shri Chandrabhanu Satapathy, IPS (Retd.) was the Chief Speaker. A debate competition among students of different Law Colleges and Universities on the topic "Human Rights in Conflict Situation" was conducted on 06-12-2015 and the best performers were awarded prizes on the day. The "Peoples Beacon" the Annual Magazine of the Commission was released on the occasion by the Chief Guest.

The Commission on the occasion also felicitated the following personalities for their outstanding contribution in the field of human rights:

- i) Dr. Bidyut Kumar Das
Professor S.C.B Medical College & Hospital,
Cuttack
- ii) Ms. Sashi Prava Devi,
Matron (Retd.), Capital Hospital
Bhubaneswar
- iii) Shri D. Prakash Rao,
Social Activist, Cuttack
- iv) HAV-1293 Dukhiram Marandi
Attached to PCR-3 of Kharvel Nagar P.S.,
Bhubaneswar
- v) OAPD- 376 Upendra Kanhar,
Attached to PCR-29 of Badagada P.S.,
Bhubaneswar
- vi) HG- 896 Biswaranjan Panda
Attached to PCR-29 of Badagada P.S.,
Bhubaneswar



Sri B.B. Mishra, IPS (Retd.), Hon'ble Sri Justice M.M. Das(Retd.) and Prof. (Dr.) Brahmananda Satpathy were the judges in the Debate Competition.



Participants of Debate Competition with Hon'ble Acting Chairperson and other officers of OHRC.



Participants of various Law Universities of the State in a Debate Competition held on 06-12-2015 on the topic "Human Rights in Conflict Situation"



OBSERVANCE OF WORLD HUMAN RIGHTS DAY, 2015 AT JAYADEV BHAWAN BHUBANESWAR ON 10-12-2015.



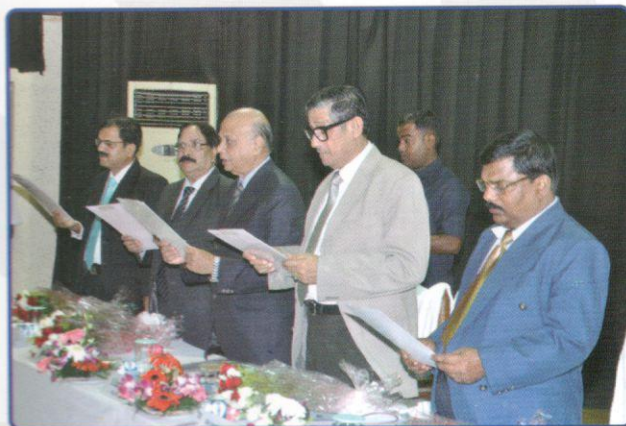
Opening song "Vande Utkal Janani..."



Inauguration of World Human Rights Day, 2015.



Guests in the Audience

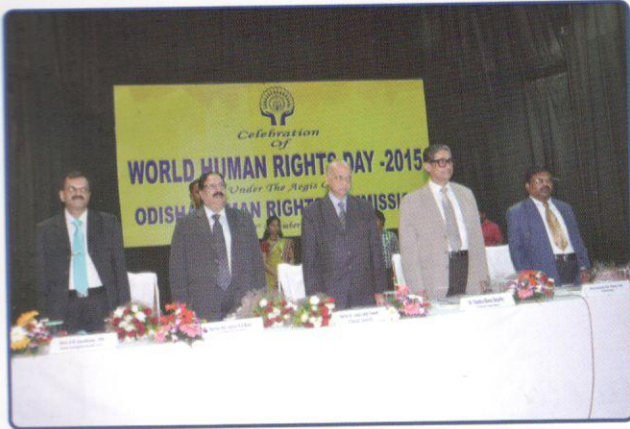


Taking pledge to Promote and Protect Human Rights

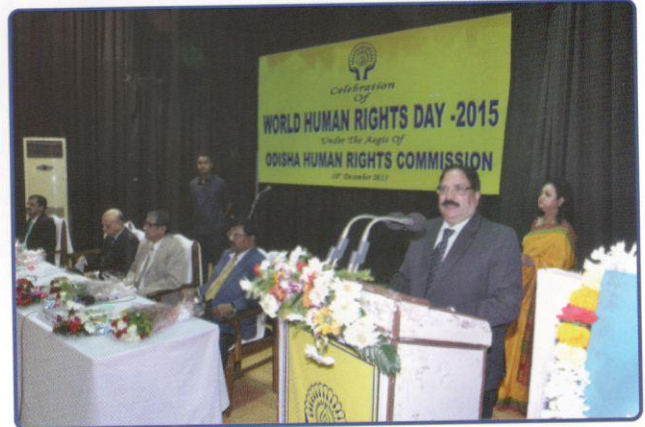




OBSERVANCE OF WORLD HUMAN RIGHTS DAY, 2015 AT JAYADEV BHAWAN BHUBANESWAR ON 10-12-2015.



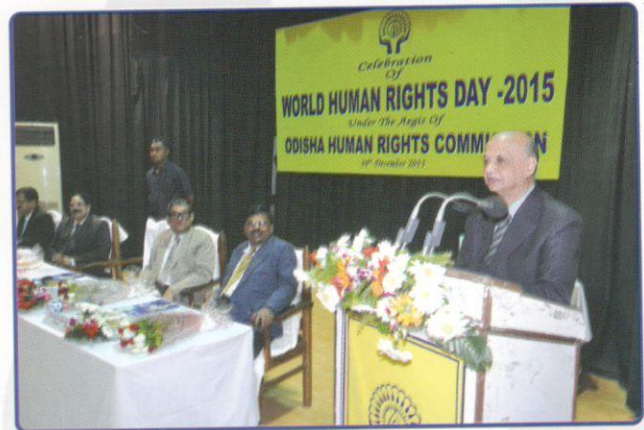
Sri S.K. Upadhyay, Director Investigation-cum-ADG, Police, OHRC,
Hon'ble Sri Justice B.K. Misra,
Acting Chairperson, OHRC,
Hon'ble Justice (Dr.) Arijit Pasayat,
Former Judge,
Supreme Court presently Chairman, SIT,
Dr. Chandrabhanu Satpathy,
Former DG of Police, UP,
Sri A.C. Shial, IAS, Secretary, OHRC.
Present on dais.



Ice-breaking by Hon'ble Sri Justice
B.K. Misra, Acting Chairperson, OHRC



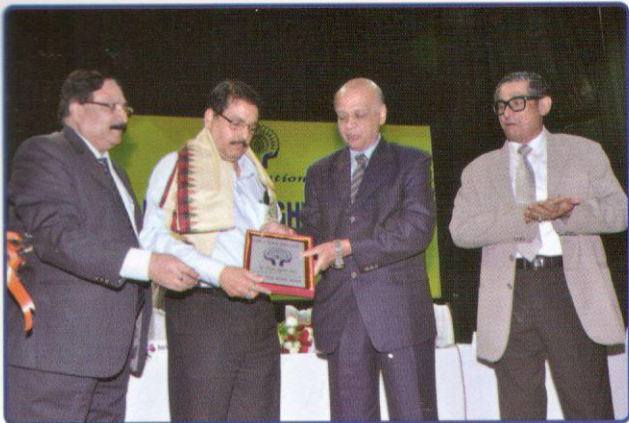
Chief Speaker Dr. Chandrabhanu Satpathy,
Former DG of Police, UP addressing the
audience.



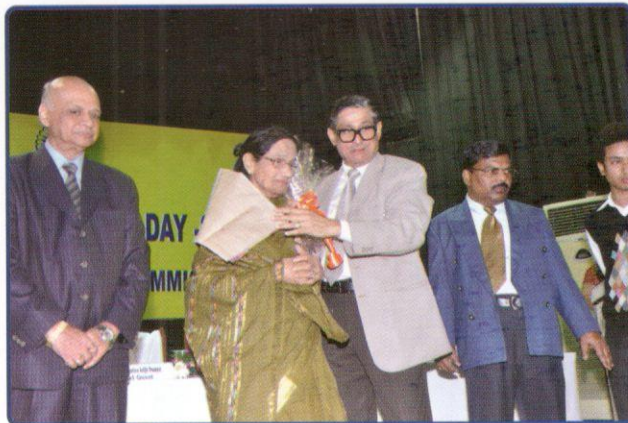
Chief Guest Hon'ble Sri Justice
(Dr.) Arijit Pasayat addressing the audience



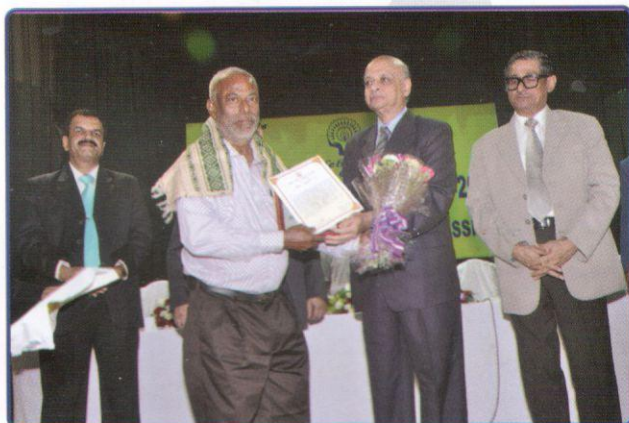
Personalities being felicitated on the occasion of World Human Rights Day on 10-12-2015 for their Outstanding contributions in Protection of Human Rights by Chief Guest Hon'ble Sri Justice A. Pasayat and Chief Speaker Dr. Chandrabhanu Satapathy, Former D.G of Police, U.P.



Felicitations of Dr. Bidyut Kumar Das, Professor S.C.B. Medical College & Hospital, Cuttack by Hon'ble Sri Justice (Dr.) Arijit Pasayat.



Felicitations of Ms. Sashi Prava Devi, Matron(Retd.), Capital Hospital, Bhubaneswar by Dr. Chandrabhanu Satpathy.



Felicitations of Shri D. Prakash Rao, Social Activist, Cuttack by Hon'ble Sri Justice Dr. Arijit Pasayat.



Commissionerate Policemen (HAV - 1293 Dukhiram Marandi, OAPD - 376 Upendra Kanhar and HG - 896 Biswaranjan Panda) being felicitated for their acts of bravery and philanthropic attitude shown to stranded persons on Bhubaneswar-Puri National Highway by Hon'ble Sri Justice A. Pasayat and Dr. Chandrabhanu Satpathy on 10-12-2015 during celebration of World Human Rights Day



CHAPTER - 8

BUDGET & FINANCE OF THE ODISHA HUMAN RIGHTS COMMISSION

- (i) (a) Government of Odisha provided a sum of Rs. 2, 46, 46,000/- 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 2015-16.
- (b) Government of Odisha provided a sum of Rs. 20, 00,000/- 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 2015-16.
- (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. 2,02,18,000/- was made which was 82.02 % of the Budgetary provision of the year 2015-16.
- (b) The total Budget provision of Rs. 20, 00,000/- under State Plan was and the expenditure of Rs. 17,66,000/- was incurred ; as such, surrender to the tune of Rs. 2,34,000/- was during the year 2015-16.
- (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 and State Plan are indicated in the statement at Annexure V & VI respectively.





CHAPTER - 9

RIGHT TO INFORMATION ACT, 2005

Smt. Shyamali Mohapatra, Deputy Secretary and Sri Bimalendu Satapathy, Deputy Superintendent of Police worked as the Public Information Officer of the Commission for the period from 01-04-2015 to 14-09-2015 and from 15-09-2015 to 31-03-2016 respectively with Sri Asisa Kumar Majhi, Section Officer as Asst. Public Information Officer of the Commission.

Further, Smt. Shyamali Mohapatra, OAS-I(SB) Deputy Secretary (01-04-2015 to 29-06-

2015) and Sri Benudhar Behera, OAS (SAG), Secretary (30-06-2015 to 31-10-2015) worked as the Appellate Authority of this Commission in different times followed by Sri Ananda Chandra Shial, IAS, Secretary (continuing).

The details of applications and appeals received and disposed of under Rights To Information Act, 2005 during the year 2015-16 are indicated below:

Details of RTI Applications

2015-16

| | | |
|---|--|-----|
| 1 | No. of Applications Received | 101 |
| 2 | No. of Applications disposed of within 30 days | 46 |
| 3 | No. of Applications pending but disposed of beyond one month | 42 |
| 4 | No. of Applications pending but are within one month | 09 |
| 5 | No. of Applications transferred to other Department/Organisation | 04 |

Details of 1st Appeal

| | | |
|---|---|-----|
| 1 | No. of Appeal received by the Appellate Authority | 06 |
| 2 | No. of such Appeal disposed of within one month | 06 |
| 3 | No. of Appeal pending | Nil |

Details of 2nd Appeal with S.I.C

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





ANNEXURE- I

Occupancy Position of OHRC during the year 2015-16

| Sl.No | Post/Designation | Sanctioned | In Position | Vacancy |
|-------|---------------------------|------------|---------------------|-----------|
| 1 | Chairperson | 1 | - | 1 |
| 2 | Member | 2 | 2 | Nil |
| 3 | Secretary | 1 | 1 | Nil |
| 4 | Director Investigation | 1 | 1 | Nil |
| 5 | Registrar | 1 | - | 1 |
| 6 | Joint Secretary | 1 | 1(Deputy Secretary) | 1 |
| 7 | Addl. Supdt. of Police | 2 | 1 | Nil |
| 8 | Under Secretary | 1 | - | 1 |
| 9 | Deputy Registrar | 1 | - | 1 |
| 10 | Asst. Registrar | 1 | - | 1 |
| 11 | Dy. Supdt. of Police | 3 | 3 | Nil |
| 12 | Court Master | 1 | - | 1 |
| 13 | Accounts Officer | 1 | 1 | Nil |
| 14 | Private Secretary | 2 | 1 | 1 |
| 15 | Inspector of Police | 4 | 3 | 1 |
| 16 | Section Officer | 2 | 2 | Nil |
| 17 | Personal Assistant | 6 | 2 | 4 |
| 18 | Senior Assistant | 2 | 2 | Nil |
| 19 | Assistant Section Officer | 5 | 3 | 2 |
| 20 | Accountant-cum-Cashier | 1 | 1 | Nil |
| 21 | Senior Stenographer | 2 | 2 | Nil |
| 22 | Junior Stenographer | 3 | 1 | 2 |
| 23 | Computer Operator | 1 | - | 1 |
| 24 | Junior Asst. | 2 | 2 | Nil |
| 25 | Despatcher-cum- Typist | 2 | 1 | 1 |
| 26 | Constable | 8 | 4 | 4 |
| 27 | Driver | 4 | 4 | Nil |
| 28 | Peon / Class- IV | 8 | 8 | Nil |
| | Total | 69 | 46 | 23 |



ANNEXURE-II

Subject-wise classification of cases registered & disposed of during the year 2015-16

| Sl.No. | Classification of cases | No. of cases |
|--------|--|--------------|
| 1 | Children | 82 |
| 2 | Health | 134 |
| 3 | Jail | 46 |
| 4 | Anti Social Activities | 73 |
| 5 | Labour | 160 |
| 6 | Minorities ST/SC | 42 |
| 7 | Physically- handicapped | 15 |
| 8 | Police, paramilitary force | 2395 |
| 9 | Pollution | 30 |
| 10 | Religion/ Community | 25 |
| 11 | Service Matter | 280 |
| 12 | Women | 1080 |
| 13 | Miscellaneous | 1444 |
| | Total No of cases received during the year | 5806 |
| 1 | Total Number of cases dismissed in limine | 1820 |
| 2 | Total number of cases taken up for hearing | 3986 |
| 3 | Total numbers of cases pending from previous year | 8409 |
| 4 | Total number of cases pending for disposal during the year | 12395 |
| 5 | Total number of cases disposed of on hearing | 1483 |
| | Total no of cases pending at the end of the year | 10912 |



ANNEXURE-III

Classification of cases taken up Suo-motu during the year 2015-16

| Sl.No. | Classification of cases | No. of cases |
|--------|----------------------------|--------------|
| 1. | Children | 08 |
| 2. | Health | 09 |
| 3. | Jail | 45 |
| 4. | Anti-Social Activities | 2 |
| 5. | Labour | 3 |
| 6. | Minorities ST/SC | - |
| 7. | Physically- handicapped | - |
| 8. | Police, Paramilitary force | 4 |
| 9. | Pollution | 2 |
| 10. | Religion/ Community | - |
| 11. | Service Matter | - |
| 12. | Women | 3 |
| 13. | Miscellaneous | - |
| | Total | 76 |

ANNEXURE-IV

Subject-wise classification of cases disposed of during the year 2015-16

| Sl.No. | Classification of cases | No. of cases |
|--------|----------------------------|--------------|
| 1. | Children | 42 |
| 2. | Health | 185 |
| 3. | Jail | 02 |
| 4. | Anti-Social Activities | 16 |
| 5. | Labour | 39 |
| 6. | Minorities SC/ST | - |
| 7. | Physically Handicapped | 02 |
| 8. | Police, Paramilitary Force | 110 |
| 9. | Pollution | 05 |
| 10. | Religion/Community | 15 |
| 11. | Service Matter | 35 |
| 12. | Women | 622 |
| 13. | Miscellaneous | 410 |
| | Total | 1483 |



ANNEXURE-V

**SURRENDER STATEMENT OF ODISHA HUMAN RIGHTS COMMISSION UNDER DEMAND NO.4-2014-
ADMINISTRATION OF JUSTICE-NON-PLAN-103-SPECIAL COURT-1348-FOR THE YEAR 2015-16**

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

| MAJOR HEAD | SUB-MAJOR HEAD | C.NO | DETAILS DESCRIPTION | B.E. FOR 2015-16(TRs.) | SUPPLEMENTARY/ -RE-APPROPRIATION FOR 2015-16(TRs.) | TOTAL PROVISION FOR 2015-16(TRs.) | DETAILS OF SURRENDER FOR THE YEAR 2015-16 (TRs.) | TOTAL EXPENDITURE FOR THE YEAR 2015-16(TRs.) | Reasons for surrender |
|------------|----------------|-------|-------------------------------------|------------------------|--|--------------------------------------|---|---|---|
| 136 | 1348 | 01003 | Pay | 72,20 | | 72,20 | 16,22 | 55,98 | Due to non filling up of the posts of Hon'ble Chairperson, Registrar, Private Secretaries and P.As. in the office of OHRC and non receipt of bills. |
| 156 | 1348 | 01003 | DA | 88,08 | -037 (R) -2,90(R) | 84,81 | 14,28 | 70,53 | |
| 403 | 1348 | 01003 | HRA | 3,50 | +37(R) +2,90(R) | 6,77 | 1 | 6,76 | |
| 516 | 1348 | 01003 | RCM | 3,00 | | 3,00 | 34 | 2,66 | |
| 523 | 1348 | 01003 | OA | 10,20 | | 10,20 | 2,96 | 7,24 | |
| | 1348 | 01004 | Salaries for Consolidated Pay posts | 17,50 | | 17,50 | 2,42 | 15,08 | |
| 000 | 1348 | 06001 | TE | 5,45 | | 5,45 | 2,62 | 2,83 | |
| 000 | 1348 | 07001 | LTC | 4,50 | | 4,50 | 1,10 | 3,40 | |
| 074 | 1348 | 08001 | Electricity dues | 7,80 | | 7,80 | 2,32 | 5,48 | |
| 149 | 1348 | 08001 | Water charge | 1 | | 1 | 1 | NIL | |
| 154 | 1348 | 08001 | Tel. charge | 2,00 | | 2,00 | 20 | 1,80 | |
| 397 | 1348 | 08001 | Motor vehicle | 10,00 | | 10,00 | 46 | 9,54 | |
| 506 | 1348 | 08001 | Other Contingencies | 13,00 | | 13,00 | 25 | 12,75 | |
| 000 | 1348 | 30001 | Purchase of motor vehicle | 1 | | 1 | 1 | NIL | |
| 000 | 1348 | 78118 | Up-gradation of computer facility | 1,00 | | 1,00 | NIL | 1,00 | |

Cont.....



| MAJOR HEAD | SUB-MAJOR HEAD | C.NO | DETAILS DESCRIPTION | B.E. FOR 2014-15(Trs.) | SUPPLEMENTARY/-RE-APPROPRIATION FOR 2014-15(Trs.) | TOTAL PROVISION FOR 2014-15(Trs.) | DETAILS OF SURRENDER FOR THE YEAR 2014-15 (Trs.) | TOTAL EXPENDITURE FOR THE YEAR 2014-15(Trs.) | Reasons for surrender |
|----------------------|----------------|-------|---|------------------------|---|-----------------------------------|--|--|-----------------------|
| 000 | 1348 | 78012 | Computer consumables | 50 | | 50 | 6 | 44 | |
| 000 | 1348 | 33011 | Spare & Services | 50 | | 50 | 9 | 41 | |
| 000 | 1348 | 12001 | Consulting charges | 20 | | 20 | 17 | 3 | |
| 000 | 1348 | 12006 | Payment for Professional & Special Services | 5,50 | | 5,50 | 75 | 4,75 | |
| 000 | 1348 | 20002 | Other Charges | 1 | | 1 | 1 | NIL | |
| 000 | 1348 | 41048 | Grants | - | | - | - | - | |
| 918 | 1348 | - | Grant-in-aid General (non-salary) | 1,50 | | 1,50 | NIL | 1,50 | |
| | | | TOTAL | 2,46,46 | 0 | 2,46,46 | 44,28 | 2,02,18 | |
| 2052-0808-LAW DEPTT. | | | Festival Advance | | | 1,05 | NIL | 1,05 | |



ଓଡିଶା ରାଜ୍ୟ ମହିଳା କମିଶନ
ODISHA STATE COMMISSION FOR WOMEN
TO SHALABATI, 2ND FLOOR, SATYA NAGAR, BHUBANESWAR - 751007

ଓଡିଶା ମାନବ ଅଧିକାର ଆୟୋଗ
ODISHA HUMAN RIGHTS COMMISSION
Toshali Bhawan, 2nd Floor, Satya Nagar
Bhubaneswar - 751007

ଓଡିଶା ରାଜ୍ୟ ଉପଚାର କମିଶନ
STATE ELECTION COMMISSION, ODISHA

OFFICE OF THE LIAISON, ODISHA
STATE ELECTION COMMISSION, ODISHA
TO SHALABATI, 2ND FLOOR, SATYA NAGAR, BHUBANESWAR - 751007

HOUSE OF THE STATE ELECTORAL COMMISSION
STATE ELECTION COMMISSION, ODISHA
TO SHALABATI, 2ND FLOOR, SATYA NAGAR, BHUBANESWAR - 751007