

ବାର୍ଷିକ ବିବରଣୀ
ANNUAL REPORT
2017-18



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 fifteen 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, Religious 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 persons.

The Commission's intervention has resulted in spectacular improvement in many illustrative areas where human rights and fundamental freedom of individuals or groups 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. 1418/2016, the Hon'ble Commission under Section 18 (a)(i) of the Protection of Human Rights Act, 1993, had recommended compensation of Rs.4,50,000/- (rupees four lakh fifty thousand) only to the next of kin of the victim Bishnu Lohar, a boy aged about 8 years of the village Saraskana in the district of Mayurbhanj who sustained severe burn injuries on 03.03.2016 while watching football match by climbing the roof of a cattle-shed and by coming in contact with the live 11 KV electric line passing over the said roof resulting in amputation of his right leg before the knee and his right hand.

Keeping in mind the age of the victim to be 8 years who is a orphan boy, the Commission recommended to the Government in the Home Department, Odisha, Bhubaneswar to extend financial assistance to the tune of Rs.1.5 lakh to the next of kin of the victim Bishnu Lohar and the said amount to be kept in fixed deposit till victim Bishnu Lohar attains majority. For the liability of the electric supply company NESCO, the Commission also recommended that NESCO to extend financial assistance of Rs. 3,00,000/- (rupees three lakh) to the next of the kin of victim. As intimated by the Collector & District Magistrate, Mayurbhanj vide letter no.4026 dt. 14.11.2017, the compensation amount of Rs.3,00,000/- has already been paid on 31.10.2017 in shape of cheque to the next of the kin of the victim. Further intimation has also been received from the Collector, Mayurbhanj about payment of compensation of Rs.1, 50,000/- through Banker's cheque, to the next of the kin of victim.

The details of the illustrative order passed by the Commission is given in the 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. Sri Manoj Kumar Chhabra, IPS continued as Addl. D.G. of Police-Cum-Director Investigation till 22.06.2017. On his transfer, Shri S.M Narvane, IPS, Addl. D.G of Police joined as Director Investigation on 23.06.2017 and has been continuing as such. Shri Ananda Chandra Shial, IAS who assumed the office of the Secretary of the Commission on 29-10-2015 also continued as such during the period under report

3. During the year 2017-18, 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, 2017. Instead of observing the World Human Rights Day in traditional manner, the Commission observed the same this time by reaching out people requiring protection of their Rights. Accordingly, the Commission decided to observe it at Mental Institute S.C.B Medical College and Hospital, Cuttack and at "Sahaya" an NGO, located at Mangalabag, Cuttack, working for the sake of mentally retarded children. At Sahaya, one large screen Television set and a computer were donated for the education and training of the inmates. "The People's Beacon", the Annual Magazine of the Commission was also released on the occasion by the Hon'ble Acting Chairperson and other dignitaries at Mental Institute, SCB Medical College and Hospital, Cuttack during celebration of the World Human Rights Day.





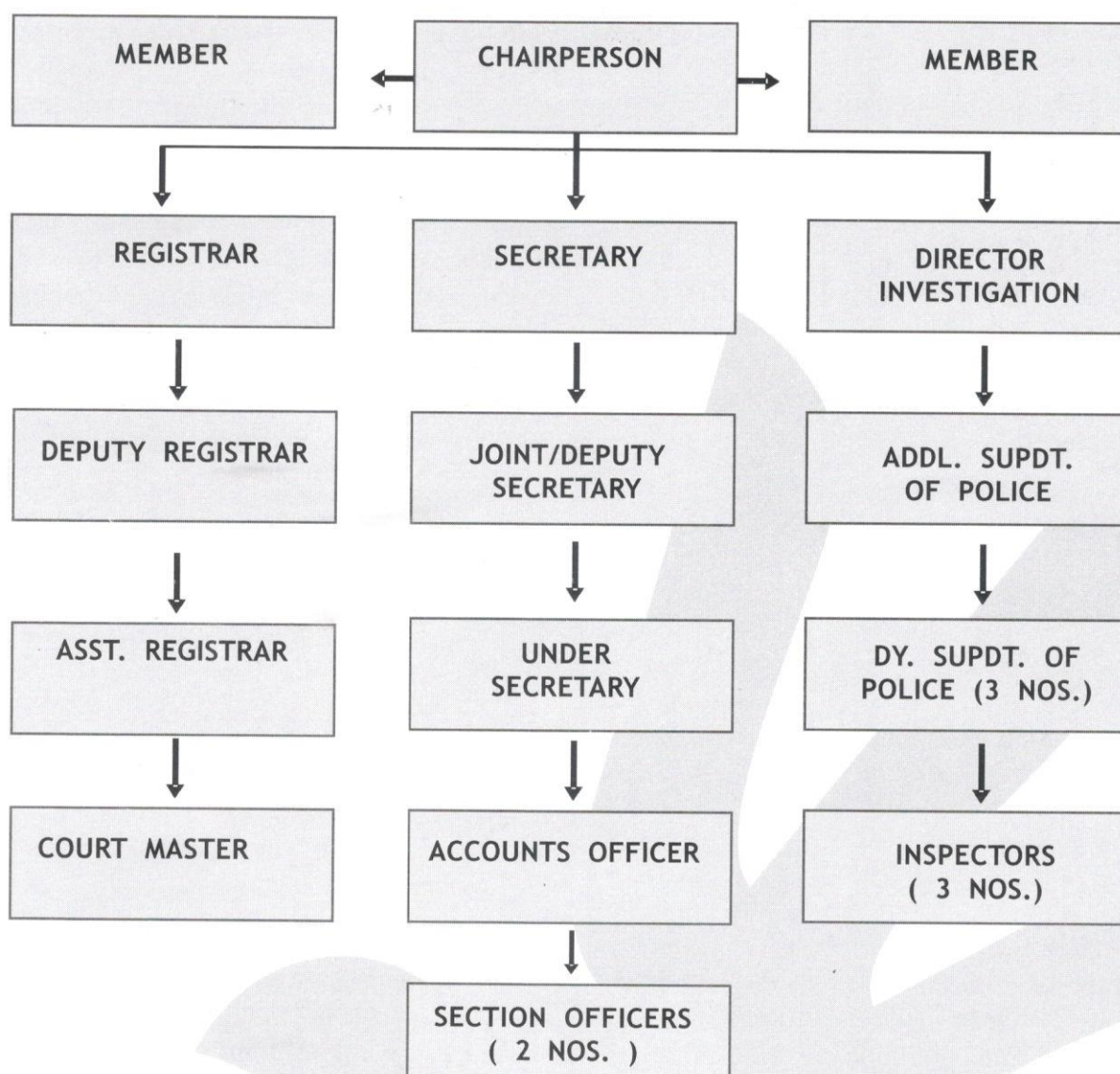
CHAPTER - 2

COMPOSITION OF THE COMMISSION IN 2017-18

	<u>Date of Joining</u>	<u>Date of Retirement</u>
Justice B.K Misra Acting Chairperson	18-11-2013	Continuing

The Staffing pattern of the Odisha Human Rights Commission during the period under report is furnished in the Annexure-I.

ORGANOGRAM



**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.

During the period from 1st April 2017 till 31st March 2018, the Commission received 5506 numbers of Complaint Petitions out of which 2196 complaints were dismissed in limine and the balance 3310 cases were entertained for enquiry by the Commission. During the period under report, 2280 number of cases were also disposed of after enquiry.

The Statement indicating subject-wise classification of cases filed during 2017-18 is furnished in Annexure II. Classification of cases entertained during 2017-18 is furnished in Annexure-IV.

Complaints in which Commission has taken cognizance related to variety of grievances include 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

Case No.1380, 1719, 5726 & 4938 of 2015
Prabir Kumar Das Petitioner
Date: 10.05.2017

As all the above four cases relate to one and the same incident, i.e. the death of a minor girl patient namely, Sujata Nayak due to lack of timely treatment by the Medical Officer in-charge, CHC, Pattamundai Dr. Bhaskar Chandra Kar in Kendrapada district in the early hours of 10.04.2015, they are clubbed together and shall be governed by this common order.

Shri Prabir Kumar Das, Advocate, Orissa High Court presented a petition before the Commission alleging the death of a 8-year-old girl namely: Sujata Nayak, the daughter of Shri Basudev Nayak, a resident of Baipada under Pattamundai Police Station limits in Kendrapara district because of treatment not being provided to her, who was allegedly suffering from Pneumonia, by Dr. Bhaskar Chandra Kar, the Medical Officer in-charge of C.H.C. , Pattamundai. It was further alleged that when the patient was taken to the CHC, Pattamundai in the early hours of 10.4.15, Dr. Bhaskar Chandra Kar was not in the Hospital, but in his official residence. However, when the family members approached the concerned doctor, he did not come to the Hospital to attend the patient but also misbehaved with them as he was then reportedly in an inebriated condition. Unfortunately, the patient without getting any treatment at the Hospital breathed her last at 6 AM on 10.4.15.

Perused the report of the Assistant District Medical Officer (Public Health),

Kendrapara which has been sent to this Commission by the CDMO, Kendrapara in its letter dated 6.6.15. The report reveals that Dr. Bhaskar Chandra Kar, M.O. in-charge, CHC, Pattamundai examined the patient Sujata Nayak and declared her to be dead. The post-mortem report reveals that the death of the girl might have occurred much before her arrival at the Hospital. Further, the report reveals that Dr. Kishore Chadra Mishra and Dr. S.K. Akhtar of District Headquarters' Hospital, Kendrapara, who examined Bhaskar Chandra Kar had opined that he had not taken any alcohol as alleged.

Perused the reports of the S.P., Kendrapara dated 15.7.15, 30.9.15 and 19.8.16 which speak that on the written report of one Gopal Chandra Nayak of village Baipada Pattamundai PS Case No.115 dated 10.4.15 under Section 294 and 304(A) of the IPC was registered against Dr. Bhaskar Chandra Kar, Medical Officer in-charge, CHC, Pattamundai. During the course of investigation, it came to light that on the night of 9.4.15 one Sujata Nayak, aged about 8 years, grand-daughter of Gopal Chadra Nayak was brought to CHC, Pattamundai at 4 AM of 10.4.15, and although, the complainant Gopal Chandra Nayak and some others of his village called Dr. Bhaskar Chandra Kar, Medical Officer in-charge of the Hospital, who was present in the Duty Room to attend to the patient, he did not open the door. At about 6.00 AM, Dr. B.C.Kar opened the door of the Duty Room in an inebriated condition, checked the patient Sujata Nayak and declared her dead. When the complainant Gopal Chandra Nayak and others held Dr. B.C.Kar responsible for the death of the



patient because of his negligence in attending the patient, he abused them in obscene languages, shouted at the top of his voice and broken the empty wine bottle in the Duty Room and as it led to a serious law and order situation, Dr. B.C.Kar was arrested on 10.4.15 and forwarded to the Court of JMFC, Pattamundai on the same day. After completion of investigation, charge sheet has been submitted vide CS No.233 dated 31.7.15 under Sections 294 and 304(A) of the IPC and the case is now sub-judice.

Following submission of the charge sheet against the accused Dr. B.C.Kar, the petitioner in his petition dated 18.12.15 prayed for adequately compensating the bereaved parents, who suffered irreparable loss in the death of their daughter.

The petitioner in his subsequent petition dated 8.8.16 submitted that in cases where charge sheet has been filed, Commission may recommend compensation. The petitioner in order to buttress his case has enclosed a photocopy of the letter of the NHRC (Law Division), New Delhi dated 31.12.2012 wherein the National Human Rights Commission in Case No.157/18/24/2009-10 **“observed that the investigation of Government Railway Police Station, Bhadrak has, prima facie found the charges that the Train Ticket Examiner (TTE) pushed the victim out of the running train. This is a violation of human rights of an individual by a public servant, and therefore, recommends an amount of Rs.4 lakhs (Rupees four lakhs) only to be paid to the victim Shri Benudhar Bhoi”**.

The petitioner taking a cue from the above observation of the NHRC, New Delhi submitted that since Pattamundai PS Case No.115 dated 10.4.15 has ended in submission of charge sheet, it shows that a prima facie case has been made out against Dr. Bhaskar Chandra Kar, Medical Officer in-charge, CHC, Pattamundai and because of his alleged

negligence, it led to the death of the girl patient. Therefore, the petitioner strongly contended that since the death of the girl patient was attributed to the negligence of the concerned doctor, it is a clear case of violation of her human rights in terms of Section 18(a)(i) & (e) of the Protection of Human Rights Act, 1993, and therefore, the State is liable to pay necessary monetary compensation to the next of the kin of the deceased girl.

Perusal of the record reveals that though the Commission has heard Dr. Bhaskar Chandra Kar, he has not furnished his response to the complaint of the petitioner as well as to the report of the S.P., Kendrapara dated 30.9.15. Although Dr. Bhaskar Chandra Kar was supplied with copies of relevant records for submission of his response by registered post with AD, the same have been received back with the postal remark “the addressee has left”. In view of this fact, there is hardly any chance to obtain his response.

Therefore, the Commission relying on the above observation of the NHRC, New Delhi in Case No.157/18/24/2009-10 recommends that the State is to pay Rs.2 lakh (Rupees two lakh) only to Shri Basudev Nayak, the father of the deceased girl patient Sujata Nayak of village Baipada under Pattamundai Police Station limits in Kendrapara district as compensation for the loss of his daughter owing to negligence in providing treatment to her in the CHC, Pattamundai. The Commission further desires that the said amount of compensation so recommended be recovered from Dr. Bhaskar Chandra Kar, ex-Medical Officer in-charge, CHC, Pattamundai as he was found negligent in attending the girl patient even though he was very much present in the Hospital itself at the time of arrival of the patient.

This order be communicated to the Commissioner-cum-Secretary to Government,



Health & Family Welfare Department, Odisha, Bhubaneswar as well as Chief District Medical Officer, Kendrapara for appropriate action and also payment of the amount of compensation of Rs. 2,00,000/- (Rupees Two Lakh) only to Sri Basudev Nayak, the father of the deceased girl patient Sujata Nayak within eight weeks hence and a compliance report be sent to the Commission for its record.

Case No-594/2017

Jugal Charan Das Petitioner

Order Date : 11.05.2017

The petitioner Shri Jugal Charan Das of village Puruna Dasapalla under Dasapalla Police Station limits in Nayagarh district alleged that on 03.02.2017 when arrangements were being made for immersion of "Goddess Saraswati" in Subalaya UG ME School and the students were moving here and there, his grand-son, who is reading in Class-I of the said school accidentally fell in the hot rice gruel which was kept after cooking of rice meant for the Mid-day Meal and was seriously injured. The petitioner stated that though the child was first admitted into the Dasapalla Hospital, he was later shifted to SUM Hospital, Bhubaneswar for better treatment, for which he incurred a heavy expenditure towards the cost of treatment.

The petitioner further alleged that though he on 06.02.2017 lodged an FIR at Dasapalla Police Station in that regard, no action has been taken by the local police in the matter. The petitioner also alleged not to have received any kind of assistance from the district administration for the treatment of his grand-son.

Perused the enquiry report of the DSP, HRPC, Nayagarh dated 19.03.2017 as forwarded by the S.P., Nayagarh in its letter dated 20.03.2017. According to the said enquiry report, Dasapalla PS Case No.16 dated

06.02.2017 was registered against the Headmaster and other staff of Subalaya UGME School on the FIR lodged by Shri Jugal Charan Das, the grand-father of the victim boy namely Gyanaranjan Das, aged about 6 years and reading in Class-I of the same school and during investigation of the said case, it came to light that on 03.02.2017 when all preparations were being made for immersion of Goddess "Saraswati" and all the students of the school were in a hilarious mood, both the victim boy and another student namely Chandan Guru were merrily involved in a game and as ill luck would have it, the victim boy accidentally fell into the bucket in which hot rice gruel was kept for disposal by the Cook-cum-Helper in-charge of preparation of Mid-Day meal and got himself injured. As soon as the victim boy screamed for help, he was immediately taken to the nearby CHC for necessary treatment. Thereafter, on the insistence of his parents, he was brought to the Sum Hospital, Bhubaneswar for better treatment and having admitted there on 04.02.2017, he was discharged on 13.02.2017 which shows that the victim boy was under treatment for about 9 days. On perusal of the treatment papers of the Sum Hospital, Bhubaneswar, it is seen that the victim boy was admitted into the Hospital with 15% TBSA Scald Burns. It is revealed from the report that while all assistance was provided to the victim boy for his treatment by the Headmaster of the School, there was no negligence on the part of School authorities in this case. However, the investigation into the case is not yet complete.

Also perused the report of the Block Education Officer, Dasapalla dated 09.02.2017 along with other papers attached thereto which were transmitted to this Commission by the District Education Officer, Nayagarh in its letter dated 31.03.2017. The BEO, Dasapalla observed that due to lack of proper supervision



and negligence on the part of the school authorities such an accident could take place. He also observed that it was the first and foremost duty of each staff of the School to ensure that hot rice gruel is thrown away in order to avoid any such incident. He has cautioned the staff as well as the Cook-cum-Helper to see that such thing is not repeated once again. Also perused the minutes of the meeting of the School Managing Committee held on 07.02.2017 wherein it was resolved that the Headmaster of the School shall keep a strict watch on the day to day cooking arrangement to avoid any such situation in future. The Cook-cum-Helper also firmly committed to put an end to such a thing once and for all.

Having gone through the reports, the Commission is of the opinion that while the students are in the care and custody of the school authorities during the school hours, it is their exclusive responsibility to ensure that no harm of any nature is caused to the students. It is all the more necessary to keep a proper watch on the activities of the students so that they would get no scope to do any such thing involving risk to their life and limbs. In the instant case, as it appears, the teacher and others were quite oblivious of their responsibility of taking proper care of the students, for which the victim boy could be injured by falling himself into the bucket containing the hot rice gruel. As it seems, it was the regular practice of not instantly disposing such things and naturally, it takes its own time to lose heat. This is not a solitary instance in the eyes of the Commission. In a similar case of this nature, a student of a Sevashram also suffered from serious burn injuries being in contact with hot rice gruel which was inadvertently flung by the Cook-cum-Helper. Since such instances are taking place at different times, it is imperative that School authorities are to take all precautionary measures to keep such things at bay.

However, the Commission taking into consideration the pain and suffering of the victim boy as well as the stress and strain taken by his parents for his treatment recommends that the State being vicariously liable is to pay Rs. 20,000/- (Rupees twenty thousand) only to the victim boy namely, Gyanaranajan Das, son of Prasanta Das of village Puruna Dasapalla in Nayagarh district for the burn injuries sustained by him in the School premises apparently due to the negligence of the school authorities.

This order be communicated to the Commissioner-cum-Secretary to Government, School & Mass Education Department, Odisha, Bhubaneswar as well as District Education Officer, Nayagarh for appropriate action and also payment of the amount of compensation of Rs.20.000/- (Rupees Twenty Thousand) only to Shri Prasanta Das, the father of the victim student Gyanaranjan Das within eight weeks hence and a compliance report be sent to the Commission for its record. A copy of this order be also communicated to the Collector & District Magistrate, Nayagarh.

Case No.5414/2015

Shyamsundar Jena Petitioner

Order Date : 19.05.2017

Perused the reports received from the District Magistrate & Collector, Bhadrak dated 7.1.16 as well as the Sub Collector, Bhadrak dated 28.12.15 on the complaint of the petitioner Shri Shyamasundar Jena about the negligence and carelessness on the part of the authorities of Jawahar Navoday Vidyalaya, Chandimal, Basudevapur in Bhadrak district in taking prompt action in providing necessary treatment to his daughter named Priyanka Priyadarshini Jena, a student of the said School, for which she lost complete vision of her left eye which was seriously injured during her stay in the School Hostel.



It is revealed from the report of the Sub-Collector, Bhadrak that on 24.11.15 afternoon Priyanka Priyadarshini Jena, the daughter of the petitioner received serious injury in her left eye of being hit by a GI wire inside the Hostel campus, she along with one Bijayalaxmi Dalei complained to the Caretaker of the Hostel namely; Lipi Puspa Nayak. Although one Miss Suman Saroj Minz, TGT Science Teacher was in-charge of the Hostel for that day in the absence of both House Mistress (Mrs. S. Leha) and Assistant House Mistress (Mrs. S. Parmar), no information with regard to the occurrence of such an incident was reported to her between 6 PM to 7.50 PM. However, after she came to know about the matter at 8 PM, she telephonically intimated the parents of the injured student and on the next day her mother and brother took her from the Hostel for necessary treatment. Although the matter was immediately reported to the Caretaker, she did not take any action herself nor informed Miss Minz, the House Mistress in-charge. The duty and responsibility of Miss Minz were just limited to telephonically informing the parents of Priyanka P. Jena and thereby both the Caretaker and in-charge House Mistress have shown negligence in providing the preliminary treatment to her, for which the vision of her left eye was permanently impaired. Apart from this, no timely information was given to her parents which stood in the way of her immediate treatment. It is a pity that even though the girl was crying with pain nobody came forward to help her. The Principal of the School took the plea that she was informed of the matter only on 25.11.15. The Sub-Collector, Bhadrak in its report observed that the attempt to cover up the incident on the plea that Priyanka P Jena was playing "Jhir Jhir" is something serious. It is suggested in the report to take serious action against the Caretaker of the Hostel Lipi Puspa Nayak as she failed to inform the House Mistress for

providing timely first aid treatment to Priyanka P. Jena. At the same time, the Principal of the School should be advised to improve the administration of the Hostel and also pay due attention to the problems of the School students without any delay.

The Collector, Bhadrak in its report also held the view that neither Lipi Puspa Nayak, the Hostel Caretaker nor Miss Minz in-charge House Mistress took any step to provide first aid treatment to the injured student and did not refer her to any Hospital for necessary treatment. The guardians of the injured student took upon themselves the responsibility of the treatment of their child after taking her from the Hostel on 25.11.15, but it was then too late as she lost the vision of her left eye for good and all.

Perused the detailed report of the Principal, Jawahar Navodaya Vidyalaya (JNV), Chandimal dated 20.2.16 which was forwarded by the Regional Officer, Central Board of Secondary Education, Bhubaneswar in its letter dated 4/5.3.16. It is seen that contrary to the observation of the Sub-Collector, Bhadrak, the Principal of the JNV in his report has mentioned that the concerned girl student sustained injury in her left eye not actually being hit by the GI wire but being hit by "Jhir Jhir" wire while she was playing. Though the views of both the aforesaid authorities are divergent from each other on this issue, the fact remains that nothing was done by the Hostel authorities, or for that matter, the School authorities in providing any immediate treatment to the injured girl student till her guardians came from Bhubaneswar and took her with them for her treatment. The observation of the Principal, JNV in its report that the House Mistress in-charge Mrs. S.S. Minz could not find out any seriousness of the injury is not only unfortunate but also his further observation that Mrs. Minz could not give any first aid at Vidyalaya level and



reported the matter to the parents of the injured girl at about 8.30 PM of 24.11.15 is highly deplorable. In the opinion of the Commission, these two facts as mentioned in the report of the Principal, JNV smack of lack of sense of responsibility and a deliberate negligence on the part of the concerned House Mistress in-charge.

Also perused the report of the OIC, Kasia Marine Police Station in Kasia Marine PS Case No.55 dated 10.12.15 which has been forwarded by the S.P., Bhadrak in its letter dated 11.7.16. According to the said report, on 24.11.15 after taking lunch, while Priyanka P. Jena was standing near the balcony of the Hostel along with her friends, she picked up an old fire-cracker wire of 13 Cm length from the roof and started playing with it and before she could know anything, her left eye was hit by the said wire and consequently she received injuries. The OIC, Kasia Marine PS has categorically stated in its report that School authorities did not take any step for her medical treatment and rather reported the incident to her parents, who ultimately took up the entire responsibility of treatment of their daughter. However, after completion of investigation, the case has been returned as mistake of fact under Sections 337 and 338 of the IPC vide Final Form No.05 dated 31.1.16.

Also perused the response of the petitioner to the report of the OIC, Kasia Marine Police Station as well as the observation of the S.P., Bhadrak thereon in Kasia Marine PS Case No.55 dated 10.12.15. The petitioner while terming the report of the OIC, Kasia Marine PS totally false has stated that the concerned OIC was influenced to submit such a report based on a fabricated story. The petitioner assailed the report of the OIC, Kasia Marine PS on the ground that the Hostel building being itself a two-storied one and according to the report of the OIC, his daughter who was standing near the balcony

of the Hostel, and not on the roof top of the Hostel building, how it could be possible for her to pick up the fire cracker from the roof, and from this very fact, it leaves no doubt that the OIC, Kasia Marine PS in order to suppress the truth has fabricated such an imaginary story. Further, there being no boarders in the Hostel during the Kali Puja and Diwali, there is remote possibility of availability of a fire-cracker wire in the balcony of the Hostel. It is crystal clear from the report that the School authorities neglected in their duties in providing treatment to his daughter which is nothing but a criminal negligence on the part of the School authorities. The petitioner prayed that the report of the OIC, Kasia Marine PS as forwarded by the S.P., Bhadrak should not be relied upon as its contents are far from truth and moreover, it has been prepared with an intention to shield the School authorities.

Also perused the responses of both Smt. Lipi Puspa Nayak, Matron and Mrs. Suman Saroj Minz, TGT (Sc.) and House Mistress in-charge, JNV, Chandimal.

Lipi Puspa Nayak, Matron appeared before the Commission on 15.12.16 and submitted that during the prayer hour, i.e., at 6.30 PM of 24.11.15 Priyanaka P. Jena came to her to say about the injury sustained by her in her left eye and at that point of time the House Mistress was also present. After she advised her to wash her affected eye with some water, she and the House Mistress both went to their respective places and on the phone call made by the House Mistress to the parents of Priyanka P. Jena, they came on the next day and took her away from the Hostel for her treatment. She further submits that following this incident, she has been removed from the job by the Principal of the School and she has been finding it extremely difficult to maintain her livelihood



as she is a widow and having a 8-year-old son to support.

Pursuant to the direction of the Commission Suman Saroj Minz, TGT (Science), JNV, Chandimal also appeared before the Commission on 15.12.16 and submitted that Mrs. S. Leha, Librarian of the School was the House Mistress of the Junior Girls' House till 24.11.15, i.e., the day on which Priyanka P. Jena received injury on her left eye, and she had in fact signed in the Staff Attendance Register both in the morning and afternoon session. Therefore, she submitted that the Principal has not issued any order keeping any teacher including herself as in-charge of Junior Girls' House on 24.11.15 and the Principal had also himself was out of the School on 24.11.15 from 2.35 PM to 6.00 PM on official work. She further submitted that as Smt. S. Leha, House Mistress of Junior Girls' House was very much on duty on 24.11.15, no sick report of Priyanka was brought to her notice either by the Duty Master or by students or by the Matron. She further submitted that even though the House Mistress of Junior Girls' House Smt. S. Leha had signed in the Staff Attendance Register, she was not available in the campus to render any help to the injured girl. However, after the matter came to her notice, she intimated the fact to the victim girl's parents over phone at 8.30 PM. She pleaded that in the fact situation, it is not justified to hold her responsible in this case.

On a careful analysis of the whole issue, the Commission is convinced of the fact that the School authorities have miserably failed in providing any treatment to the injured daughter of the petitioner till her parents swung into action on the next day. This is, no doubt a serious lapse on the part of the School authorities. Therefore, the Principal of the School being the head of the institution is held responsible for not taking any step for the treatment of the injured student, and

unfortunately those who were also present or should have remained present in the premises of the School Hostel on some plea or other had shirked their responsibility by shifting the blame to a low paid widow employee, who was appointed as a Matron on contractual basis.

Section 2 (d) of the Protection of Human Rights Act, 1993 envisages that "human rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India. Section 12 of the Protection of Human Rights Act, 1993 deals with the functions of the National Human Rights Commission (NHRC).

Needless to mention here that under Section 29 of the Protection of Human Rights Act, 1993 (herein referred to Act, 1993) says that provisions of Section 9, 10, 12, 13, 14, 15, 16, 17 and 18 shall apply to a State Commission except clause (f) of Section 12. Thus, Sections 9, 10, 12, 13, 14, 15, 16, 17 and 18 are also applicable to a State Human Rights Commission *mutatis and mutandis*.

Human Rights Commission has been constituted to enquire into a case of violation, protection, promotion of human rights. The power is an extensive one and in the opinion of the Apex Court, it should not be narrowly viewed.

The Hon'ble Apex Court of the country in the case of Ramdeo Chauhan alias Rajnath Chauhan v. Bani Kant Das & Others, (AIR 2011, Supreme Court 615) have held that "It must be jurisprudentially accepted that human right is a broad concept and cannot be straitjacketed within narrow confines. Any attempt to do so would truncate its all-embracing scope and reach, and denude it of its vigour and vitality. That is why, in seeking to define human rights, the



Legislature has used such a wide expression in Section 2(d) of the Act. It is also significant to note that while defining the powers and functions of NHRC under Section 12 of the Act, the said broad vision has been envisioned in the residuary clause in Section 12 (j).”

In the words of Justice V.R. Krishna Iyer in his Tagore Law Lecture (The Dialectics and Dynamics of Human Rights in India) “Human rights are writ on a large canvas, as large as the sky. The law makers, lawyers and particularly, the Judges, must make the printed text vibrant with human values, not be scared of consequences on the status quo order. The militant challenges of today need a mobilization of revolutionary consciousness sans which civilised systems cease to exist. Remember, we are all active navigators, not idle passengers, on spaceship earth as it ascends to celestial levels of the glorious human future.”

In the words of Alexander Hamilton, the great constitutional expert and political philosopher “The sacred rights of mankind are not be rummaged for, among old parchments or musty records. They are written, as with a sun beam in the whole volume of human nature, by the hand of divinity itself; and can never be erased or obscured by mortal power.”

Keeping these broad principles in view, their Lordships of the Apex Court in Ramdeo Chauhan case (supra) held that the jurisdiction of NHRC stands enlarged by Section 12 (j) of the 1993 Act, to take necessary action for protection of human rights. Such action would include enquiry into cases where a party has been denied the protection of any law to which he is entitled, whether by a private party, a public institution, the government or even the Courts of law. Their Lordships were of the firm opinion that if a person is entitled to benefit under particular law, and benefits

under that law have been denied to him, it will amount to a violation of his human rights. 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 recognise them since they are so quintessentially part of every human being. That is why, democratic country committed to rule of law put into force mechanisms for their enforcement and protection.

In view of the theory propounded by the Hon’ble Apex Court in Ramdeo Chauhan case, the inescapable conclusion is that in the JNV at Chandimal under Basudevpur Police Station limits in Bhadrak district which is located in the geographical territory of the State of Odisha and is being run by the Department of Secondary & Higher Education, Ministry of Human Resource Development Department, Govt. of India, where the alleged unfortunate incident took place and there has violation of the human rights of an innocent girl student of the said Vidyalaya. This Commission has jurisdiction to enquire into the case as the said Vidyalaya is a public institution. Since it is an established fact that the concerned girl student was not provided any timely treatment for the injury sustained by her in her left eye till her parents came from all the way from Bhubaneswar to Bhadrak on the next morning and made arrangements for her treatment initially at Bhadrak and thereafter at Bhubaneswar. Despite the best medical treatment, the poor girl ultimately lost the vision of her left eye for ever. Moreso, when her eyeball was removed at a budding stage, it spelt a huge disaster for her. Considering the fact that when the poor girl student lost her eye sight permanently, no amount of financial assistance would made good such loss. Besides that, the injured student had



undergone tremendous pain, suffering and trauma which is very difficult to be assessed in terms of monetary compensation. Nevertheless, her case deserves monetary assistance as she suffered a permanent disability which would act as a main deterrent throughout her life.

The Commission having gone through the report of the S.P., Bhadrak is of the view that submission of Final Form in Kasia Marine P.S. Case No.55 dated 10.12.2015 cannot be a ground to deny payment of monetary assistance to the victim student irrespective of the fact that how she sustained the injury. But it is an undeniable fact that after the girl student sustained the injury in her left eye no timely action was taken to provide her the necessary medical assistance despite her approach to the School authorities then present in the School premises.

Taking into consideration the gravity of the matter, the Commission in its considered view recommends that the authorities of JNV should extend financial assistance to the tune of Rs.5 lakhs (Rupees five lakhs) only to Priyanka Priyadarshni Jena, the daughter of the petitioner, who even after this unfortunate incident is continuing her studies in the said Vidyalaya for the loss of vision of her left eye within 60 days hence and furnish necessary compliance report to the Commission for record.

The compensation which has been recommended to be paid to the victim girl student is to be first complied with by the Union Government and the Union Government may consider to recover the same from the Principal of the Jawahar Navodaya Vidyalaya, Chandimal, Basudevpur, Bhadrak district, Odisha, and the Superintendent of the Hostel and House Master/House Mistress.

Let a copy of this order be sent to the Secretary, Ministry of Human Resource

Development Department, Department of Secondary and Higher Education, Govt. of India, New Delhi, Deputy Secretary (Legal), Central Board of Secondary Education, "Shiksha Kendra" 2, Community Centre, Preet Vihar, Delhi-110301, Deputy Commissioner, Navodaya Vidyalaya Sanghathan, Regional Office, Bhopal, Madhya Pradesh, Regional Officer, Central Board of Secondary Education, 6th Floor, Alok Bharati Building, Saheed Nagar, Bhubaneswar and Assistant Secretary, Central Board of Secondary Education Regional Office, Saheed Nagar, Bhubaneswar for compliance of the aforesaid recommendation of the Commission within 60 days hence and their compliance reports should reach this Commission on or before 4.8.2017.

Case No.57/2017

Prabir Kumar Das Petitioner

Order Date: 13.07.2017

Sri Prabir Kumar Das, Advocate and Human Rights Activist who is the petitioner in this case is present.

Perused the reports of the IG-cum-Chief Security Commissioner, RPF, S.E. Railway, Garden Reach, Kolkata-43, Senior Divisional Security Commissioner, RPF, S.E. Railway, Kharagpur and of the S.P., Railway, Cuttack.

Sri Das the petitioner had alleged that on 3rd January 2017 around 7 AM three railway personnel belonging to the Railway Protection Force dragged one differently abled person on Platform No.4 Balasore Railway Station and broke his crutch and assaulted him mercilessly in full public glaze. It is alleged that for no reason a differently abled man was subjected to atrocious behavior and physical assault by the protectors of law and therefore for such gross violation of human rights of a physically challenged person who has also a right to live with dignity the State has to adequately compensate for the trauma the man had endured.



The report of the IG-cum-Chief Security Commissioner, RPF, South Eastern Railway, Garden Reach, Kolkata dated 24th February 2017 reveals that considering the gravity of the incident ASI H. Choudhury, B-Coy/8BN/RPSF/ Chittaranjan and Constable 4850 G.S. Routray of TE-Coy, Kharagpur have been placed under suspension since 08.01.2017. It has been admitted by the Senior Divisional Security Commissioner, RPF, South Eastern Railway, Khargapur that prima facie on enquiry it was found that on 03.01.2017 ASI H. Choudhury and 5 other RPF Staff of TE.Coy, Khargapur were escorting Train No.22812 DN (New Delhi-Bhubaneswar Rajdhani Express) from Kharagpur to Bhadrak and on return escorted Train no. 12515 DN (Trivandrum-Guwahati Express) from Bhadrak to Kharagpur with arms and ammunition. The train reached Balasore Station on 03.01.2017 at 07.31 hours. One differently abled male person, aged about 25 years boarded the said train and entered into a 3 Tier AC Sleeper Coach for begging. Suddenly the differently abled person took away a mobile phone from one passenger and got down on platform No.3 at Balasore Railway Station. The concerned passenger raised alarm and accordingly ASI H. Chodhury and Constable 4850 G.S Routray chased and caught the differently abled person. The cell phone was recovered from that person. But it is admitted that both ASI H. Choudhury and Constable G.S Routray belonging to the Railway Protection Force manhandled the said differently abled person for which they have been charge sheeted under Rule 153 of RPF Rules, 1987 and they will be facing departmental enquiry. Besides that, the GRPS, Balasore has also registered Balasore GRPS Case No.2 dated 09.01.2017 under Section 323,341,355,506 of the IPC read with Section 34 of the IPC against ASI of Police H. Choudhury and G.S Routray, Constable.

The S.P., Railway, Cuttack in his report states that a Dibyanga (differently abled

person) namely Suresh Rao @ Lengeda @ Chhota, son of Ranjit Rao of village Chanmari, ward no.8 under Chaibasa PS limits in the district of West- Singhbhum of Jharkhand was forcibly dragged from Train No.12515 (Trivandraum- Guwahati Express) at Balasore Railway Station by RPF Staff namely ASI, RPSF, KGP Himanchal Choudhury and Constable RPF NO.4850 Ghanashyam Routray of Kharagpur Railway Division and given death kick and blows till departure of the said train at Balasore Railway Station suspecting him to have committed theft of one mobile phone to return the same to the owner with an expectation that they would be rewarded for the said act by the owner of the phone. The SP,Railway, Cuttack has also admitted that over the said incident Balasore GRPS Case No-2 dated 09.01.2017 has been registered under Section 341,323,355, 506 of the IPC read with Section 34 of the IPC and Inspector of Police Sri P.C Behera of Balasore GRPS is investigating into the case. It is also reported that as prima facie evidence was made out against both the accused person they were arrested on 14.03.2017 and released on bail as per the instruction of the Hon'ble High Court of Odisha vide BLAPL No.1448 of 2017.

Thus, the report of the IC-cum- Chief Security Commissioner, RPF, South Eastern Railway, Garden Reach, Kolkata, Sr. Divisional Security Commissioner, RPF, S.E Railway, Khargapur and that of the Superintendent of Police, Railway, Cuttack establishes that a Dibyanga (differently abled person) was manhandled by two persons belonging to the Railway Protection Force. By such brutal assault the man had to undergo trauma. Even if the Dibyanga had snatched away the cell phone from a passenger of the train law should have taken its own course. But the RPF Officers who were there to guard the railway properties has no business or authority to use brutal force on a physically challenged person and to



break his crutches which are the only means for his movement. This attitude of the two Police Personnel is highly condemnable and is not expected in a civilized society.

Thus, registering a case against the errant RPF personnel and placing them under suspension cannot act as a balm to heal the wound of the Dibyanga who has undergone the trauma.

Section 2 (d) of the Protection of Human Rights Act, 1993 envisages that “human rights” means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution embodied in the International Covenant and enforceable by Courts in India. Section 12 of the Protection of Human Rights Act, 1993 Act deals with the functions of the National Human Rights Commission (NHRC).

Needless to mention here that Section 29 of the Protection of Human Rights Act, 1993 (herein referred to Act, 1993) says that provisions of Section 9, 10, 12, 13, 14, 15, 16, 17 and 18 shall apply to a State Commission except clause (f) of Section 12. Thus, Sections 9, 10, 12, 13, 14, 15, 16, 17 and 18 are also applicable to a State Human Rights Commission mutatis and mutandis.

Human Rights Commission has been constituted to enquire into a case of violation, protection, promotion of human rights. The power is an extensive one and in the opinion of the Apex Court, it should not be narrowly viewed.

The Hon’ble Apex Court of the country in the case of Ramdeo Chauhan alias Rajnath Chauhan v. Bani Kant Das & Others, (AIR 2011, Supreme Court 615) have held that “it must be jurisprudentially accepted that human rights is a broad concept and cannot be straitjacketed within narrow confines. Any attempt to do so souls truncate its all-embracing scope and reach, and denude it

of its vigor and vitality. That is why, in seeking to define human rights, the Legislature has used such a wide expression in Section 2 (d) of the Act. It is also significant to note that while defining the powers and functions of NHRC under Section 12 of the Act, the said broad vision has been envisioned in the residuary clause in Section 12 (j)”.

Their Lordships of the Hon’ble Apex Court in Ramdeo Chauhan case held that the jurisdiction of NHRC stands enlarged by Section 12 (j) of the 1993 Act, to take necessary action for protection of human rights. Such action would include enquiry into cases where a party has been denied the protection of any law to which he is entitled, whether by a private party, a public institution, the government or even the Court of Law. Their Lordships were of the firm opinion that if a person is entitled to benefits under particular law, and benefits under that law have been denied to him, it will amount to a violation of his human rights. 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 Legislation of civilized country recognize them since they are so quintessentially part of every human being. That is why, democratic country committed to rule of law put into force mechanisms for their enforcement and protection.

Thus, taking into consideration the entire gamut situation in this case the Commission feels it appropriate to recommend extension of financial assistance by the State as the State is vicariously liable for the mistakes and misdeeds of its instrumentalities so that it would assuage the feeling of the physically challenged and traumatized boy aged about 20 years. The payment of compensation is



not to be understood as it is generally in a civil action for damage under the private law but in the broader sense of providing relief by an order of making monetary amends under the public law for the wrong done due to breach of public duty of not protecting the fundamental rights. The compensation is in the nature of the exemplary damages awarded against the wrong doer for the breach of its public law duty.

Thus, the Commission is of the considered views that the case in hand is a fit case where compensation needs to be paid to the hapless Dibyanga under Section 18 (1) (i) of the Protection of Human Rights Act, 1993.

The Commission concludes that since the unfortunate incident took place in Balasore railway station which is within the geographical territory of the State of Odisha and there has been gross violation of human rights of a Dibyanga (Physically challenged person) by the public servants belonging to the Railway Protection Force which is a public institution, the Commission recommends to the Union Government in the Ministry of railway to compensate the Dibyanga namely Suresh Rao @ Lengeda @ Chhota by paying Rs.25, 000/- (Rupees Twenty Five Thousand) within 3 months from the date of receipt of this order. The order be communicated to the Chairman, Railway Board, New Delhi and also the General Manager, South Eastern Railway, Garden Reach, Kolkata and also to the IG-cum- Chief Security Commissioner, RPF, S.E., Railway, Garden Reach, Kolkata-43 for compliance.

The aforementioned authorities are to furnish the compliance report within 3 months hence.

Case No. 1418 of 2016

Nishikanta Mishra..... Petitioner

Order Date : 24.08.2017

Sri Siddhartha Sankar Ray, Executive

Engineer (Electrical), Baripada Electrical Division, Baripada and Sri Trilochan Patra, Block Development Officer, Saraskana are present. The BDO, Saraskana informs the Commission in writing that on the alleged date the unfortunate incident in which the victim Bishnu Lohar, a boy of very tender age sustained burn injuries by coming in contact with live 11 KV conductor in village Saraskana financial assistance to the tune of Rs.10,000/- was provided to the care taker of the victim out of the Red Cross Fund available with the Block Office. Besides that, as per his recommendation a further amount of Rs.20,000/- has been sanctioned out of Chief Minister's Relief Fund which was paid to the victim and the amount has been received by the maternal uncle of victim Guru Prasad Mal on 16.03.2016. Furthermore, the victim was handed over to the District Protection Officer, Baripada for his rehabilitation and accordingly the District Protection Officer has admitted Bishnu Lohar in an institution run by Servant of India Society, Choudwar, Cuttack on 20.12.2016 for continuing his studies.

But the report of the BDO, Saraskana is completely silent as to what has happened to the victim boy after he was admitted to the Servant of India Society, Choudwar and whether any artificial limb has been fitted to the amputated right leg below knee and also right upper limb.

The Commissioner also perused the letter of the Superintendent of SCB Medical College and Hospital, Cuttack as well as that of the Prof. and HOD, Surgery, that Bishnu Lohar, a 8 year old boy was admitted into the department of surgery on 4th March 2016 with 15% burn injury of his body surface area. The patient was treated with amputation of his right upper limb and right below knee as gangrene had developed resulting from electric burn. It is also reported that the medicine and dressing materials were supplied to the



patient from the date of admission on 04.03.2016 till 14.03.2016 from the Odisha State Treatment Fund. The patient was discharged on 12.04.2016 without any complications.

But both the reports show that no further assistance from the OSTF was extended after the period from 14.03.2016 till 12.04.2016 when the victim boy was discharged from the hospital finally on 12.04.2016.

The report of the Executive Engineer (Electrical Division), Baripada dated 3rd May 2016 establishes the case of the petitioner that Bishnu Lohar who was watching football match on 03.03.2016 by climbing the roof of the cattle shed came in contact with the 11KV electric line which was passing over the roof and the report also shows that no financial assistance has been given to the victim boy or to his next of kin by NESCO. In view of the admission of Executive Engineer, Electrical Division, Baripada whatever plea now the electric department is taking that the accident took place not because of their negligence but because of the lack of farsightedness in constructing cattle shed below the 11 KV line cannot absolve the electric supply company, i.e. NESCO Utility from its liability. When NESCO is engaged in a dangerous trade the responsibility lies upon the electric supply company to see to its proper maintenance and to take adequate precautions so that no such electrical hazards takes place. The report of the Executive Engineer, Electric Division, Baripada dated 3rd May 2016 candidly establishes the fact that the boy came in contact with the 11KV line which was passing over the roof of the cattle shed while watching football game and sustained but injuries for which he was moved to SCB Medical College and Hospital, Cuttack where his right leg below knee and his right hand were amputated as gangrene had developed because of electric burn injuries which he sustained as the experts

say in their letters dated 10.06.2016 and 18.06.2016.

In these circumstances it is established that the boy aged about 8 years who was prosecuting his study in Class-I and belongs to the marginalized sections of the society and was an orphan prior to the unfortunate incident has been crippled because of the fault of NECSO. It is very very unfortunate that the electric supply company has not compassion for the poor little boy and had adopted an inhuman attitude by not extending any financial assistance as yet to the victim boy or to his next of kin. The financial assistance extended by the District Administration appears to be a pittance as the same cannot in any way assuage the trauma the boy had to undergo. The BDO, Saraskana who was present before the Commission in view of the facts and circumstances of the case submits that the State will never fail to carry out its constitutional mandate and see to the welfare of the child which is the paramount duty of a welfare State.

In the premises, the Commission recommends the State to extend financial assistance to the tune of Rs. 1.5 lakh which is to be disbursed to the next of kin of victim Bishnu Lohar. The amount so to be disbursed is to be kept in fixed deposit till victim Bishnu Lohar attains majority.

Now, coming to the liability of the NESCO Utility since the accident had taken place because of the negligence of the electric department as they should have seen that no electrical hazard takes place and when it came to their knowledge that a cattle shed is being constructed by the Saraskana Panchyat below the 11 KV line it was then their paramount duty to have taken action against such construction under the Electricity Act and the overhead LT lines should have been removed to a distance. If either the Executive Engineer or the Electrical SDO of the concerned area



or the Junior Manager, Saraskana would have ever visited their area and they would have been vigilant they could have taken steps for removal of the old 11 KV line to a distance which the electric department has done only after the electrocution of the poor boy Bishnu Lohar.

The Hon'ble Apex Court of the country in the case of **M.C Mehta Vrs. Union of India (1987) 1 SCC 395** going beyond the rule of "strict liability" 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 subjected to any of the exception to the principle of strict liability under the rule of Ryelands -v- Flecteher".

It is also the settled position of law that efforts should always be made to provide adequate compensation not only for the physical injury and treatment but also for the pain, suffering and trauma caused due to the accident and inability to lead a normal life and enjoy amenities. It is also equally the settled position of law that calculation of amount of the compensation to be so awarded involves some surmise, some hypothetical consideration, some amount of sympathy and all the aforesaid elements have to be viewed with objective standards (**Raj Kumar Vrs. Ajay Kumar (2011) 1 SCC 343**).

Thus, for the negligence of the NESCO Utility it is recommended that the Company is to extend financial assistance of Rs. 3 lakh to the next of kin of the victim boy within 2 months hence. The Authorized Officer, NESCO Utility, Motiganj, Balasore and the Executive Engineer, Electrical Division, Baripada, NESCO are to furnish the compliance

report regarding such payment of compensation to the victim boy and the money receipt is to be produced before the Commission.

This order is passed under Section 18 (a) (i) of the Protection of Human Rights Act, 1993. Copy of this order be sent to the Principal Secretary, Energy Department, Principal Secretary Revenue and Disaster Management Department, Collector and District Magistrate, Mayurbhanj and Executive Engineer, Baripada Electrical Division, NESCO Utility for submitting their compliance report within two months time.

Personal appearance of Sri Siddharth Sankar Roy and Sri Trilochan Patra dispensed with.

OHRC Case Nos. 4708,5571 of 2015

& 1937 of 2016

Sri N.K Panda & Others..... Petitioners

O R D E R

Dated: 17th October, 2017

The present case and OHRC Case Nos. 5571/2015 & 1937/2016 are tagged together for a common order as the subject matter in all the cases is one and the same.

The contents of the petition filed by the parents of the deceased victim named Anapa Marandi is taken up for consideration. It is stated that Anapa Marandi, the son of Mangat Marandi, was a student of Class- VII of Angarpada Project UP School. It is alleged by the petitioners that on 15.10.2015 around 10.45 am while Anapa Marandi had gone to attend call of nature, the concrete display board built upon the boundary wall of the school collapsed and fell upon his head and other parts of the body causing grievous injuries. It is further alleged that the injured was immediately shifted to Badampahar CHC, where the doctor declared him brought dead



and on the information of the doctor, Badampahar PS UD case no. 20/2015 has been registered and inquest was held and the body was sent for post-mortem examination and due to improper supervision of the officers of the DRDA, Mayurbhanj, BDO, Kusumi Block and the Headmaster of the said School, the precious life of a minor school student was lost. Accordingly, the petitioners have prayed for payment of compensation of Rs. 10,00,000/- (Rupees Ten Lakh) to the bereaved parents.

Perused the report of the District Education Officer, Mayurbhanj dated 13.10.2017 which has been forwarded to the Commission by the Deputy Secretary to Government, Department of School and Mass Education. The report of the DEO, Mayurbhanj reveals that late Anapa Marandi, the son of Mangat Marandi of village Dighiabeda under Badampahar PS limits in the district of Mayurbhanj was reading in Class-VII at Angarpada Project U.P. School and on 15.10.2015 around 10.10 am while all the children of the school were cleaning the school premises, all of a sudden the display board built upon the school boundary wall collapsed on the victim Anapa Marandi causing injuries. It is reported that on getting information, the villagers came to the spot and immediately shifted the victim Anapa Marandi to Badampahar CHC by a private vehicle, where the doctor declared him brought dead. The MO, Dr. Bikash Chandra Nayak of Sub-Divisional Hospital, Rairangpur, who conducted autopsy, opined that the cause of death of the deceased Anapa Marandi was due to haemorrhagic and neurological shock resulting from injury to head and fracture of frontal bone of skull. It is also reported that Sri Rama Chandra Tudu, the Headmaster of the school, was placed under suspension from 16.10.2015 to 21.10.2016 and re-instated on 22.10.2016 and posted to Pokharoia Primary School. The Headmaster of the school was warned against

negligence of duty and he was disallowed to take charges of the educational institution for a year. It is reported that Sri Rama Chandra Tudu, the Headmaster of the School, retired from Government service on superannuation on attaining the age of 60 years and all the retiral benefits have been sanctioned in his favour. The report of the DEO, Mayurbhanj further reveals that a sum of Rs.10,000/- was paid to Mangat Marandi, the father of the deceased Anapa Marandi, as compensation and the BDO, Kusumi has requested the Sub-Collector, Bamanghaty to sanction a sum of Rs. 10,000/- from the Red Cross Fund, but no such amount has been received from the Red Cross till date.

Perused all the materials on record including the report of the SDPO, Rairangpur dated 28.07.2017, the photocopy of the post-mortem report, the under Section 161 of the CrPC statement of the witnesses and the photocopy of the FF submitted in Badampahar PS UD case No.20 dated 15.10.2015. Overwhelming materials are available on record that the deceased Anapa Marandi died on 15.10.2015 at 10 am as the cemented board of the school caved in on the deceased resulting in his instantaneous death as severe injury was caused to his brain. There are also ample materials on record to show that the school children had been engaged during school hour for cleaning the school premises and that has been very candidly admitted by the District Education Officer, Mayurbhanj in his report to the Commissioner-cum- Secretary, School and Mass Education Department, Government of Odisha vide his letter No.11300 dated 13.10.2017.

The Right to Education Act, 2009 guarantees free and compulsory education to all children in the country till the age of 14. One of the key standards is in relation to access to all weather buildings, the National Policy on Disaster Management, 2009 highlights



the need for structural as well as non-structural safety in schools and educational institutions. It is evident that the existing education machinery in the country is keen to promote safe learning environment for children and teachers, but actual implementation of programmes on ground points to limited understanding of the concept of the safety. It is imperative that the existing institutions at the national and state level are strengthened and capacitated to take responsibility of school safety planning and action. Such a step will not only ensure at development policies and programmes are strengthened, but also provide the necessary succor to safety actions. The National Disaster Management Guidelines-School Safety Policy has been referred to by the Hon'ble Apex Court of India in WP (Criminal) No. 136/2017 (Barun Chandra Thakur vrs. Union of India and others). It would be most appropriate to refer to clause 3.3.2 i.e. about the action areas in planning for safety and non-structural safety measures in schools. Besides structural safety measures, non-structural elements within the school campus need to be addressed to ensure safety. These are mostly low cost, regular maintenance items that the school should address on a regular basis from their own funds. Some of these items have been listed below:

- All items of furniture such as almirah, shelves, black boards etc., as well as any other items that may fall and cause injury to students and teachers such as ceiling fans, coolers, water tanks etc. need to be secured to the wall or floor.
- Any electrical item such as loose wire that may cause an exigency should be addressed promptly by the school.
- Chemical and any hazardous material in the school laboratory should be handled and stored as per instructions to prevent any harm to students and school staff.

- Open areas including corridors and evacuation routes including staircases and ramps should be kept free from any hurdles and barriers so that evacuation is smooth and swift.
- Pots/plants in the play ground or corridors should be kept in a manner that does not affect smooth evacuation.
- Any derelict or unused building, rubble etc. should be removed to prevent any harmful animals or pests from accessing children.
- Traffic movement outside the school should be managed to minimize risk to students at the time of assembling and dispersal of school.
- During excursions, schools should carefully choose the location of excursion and the itinerary so that exposure to hazard is minimized. Extra precautions should be taken when students are being taken close to water bodies, narrow mountainous tracks etc.
- Buses or any vehicles owned /hired by the school need to be maintained properly so that students are not at risk of accidents. Drivers need to be appropriately trained on speed limits, stoppage of vehicles as well as crises management so that children remain safe during their travel to and from schools.

Emergency equipments such as fire extinguishers, ropes etc. need to be procured and maintained regularly by the School Authorities.

There can no doubt that in our state probably the safety standards which has been prescribed by the National Disaster Management Guidelines are more observed in its breach than in practice. Schools are functioning in dilapidated rooms and in an endangered and hostile atmosphere. There



are instances where number of deaths have occurred because of the collapse of the roof of the schools, the boundary wall etc. In the instant case, as has been cited earlier and from the photocopy of the post-mortem report, it appears that the victim Anapa Marandi was 12 years old when he died as the concrete display board of the school caved in on him. For such death of the boy, the school teachers donated Rs. 10,000/- out of their own fund, but from the side of the Government, nothing has been paid as would appear from the report of the District Education Officer, Mayurbhanj.

It is now a well accepted proposition in most of the jurisdiction 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 revive 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 appropriate punishment for the offender, as awarding appropriate punishment for the offence (irrespective of compensation) must be left to the criminal Courts in which the offender is prosecuted, which the State, in law, is duty bound to do. That award of compensation in the public law jurisdiction is also without prejudice to any other action like civil suit for damages which is lawfully available to the victim or the heirs of the deceased victim with respect to the same matter for

the tortuous act committed by the functionaries of the State. The quantum of compensation will, of course, depend upon the peculiar facts of each case and no strait jacket formula can be evolved in that behalf. The relief to redress the wrong for the established invasion of the fundamental rights of the citizen, under the public law jurisdiction is, in addition to the traditional remedies and not in derogation of them. The amount of compensation as awarded by the Court and paid by the State to redress the wrong done, may in a given case, be adjusted against any amount which may be awarded to the claimant by way of damages in a civil suit. (D.K Basu vrs. State of West Bengal and State of UP in WP (Crl) No.592/2987).

Thus, the Commission in exercise of its power under Section 18 (a) (i) of the Protection of Human Rights Act, 1993, while taking into consideration the entire gamut situation, is inclined to recommend the Government to pay a compensation of Rs.2,50,000/- (Rupees Two lakh fifty Thousand) to the next of kins of the deceased Anapa Marandi as the State failed to protect the life of a school-going-boy aged about 12 years and that too during school hour and in the school premises.

Let, copy of this order be sent to the Principal Secretary to Government, School and Mass Education Department, Government of Odisha, Bhubaneswar for compliance. An action taken report be, furnished to the Commission in two months' time.

Before parting with this record, the Commission recommends the Government in School and Mass Education Department to ensure structural safety and non-structural elements within the school campus as per the National Policy on Disaster Management- School Safety Policy and the guidelines issued therein should be communicated to all the educational institutions so that the children attending such educational institutions can be well protected



so that such unfortunate accidents and incidents leading to loss of life or limb in any educational institution does not occur.

Case Nos.4734, 4735, 4750, 4751, 5088 & 5202 of 2017

Sri Biswapriya Kanungo & others

..... Petitioners

Date: 10-11-2017

The petitioners, namely Sri Biswapriya Kanungo, Sri Prabir Kumar Das, Sri Pradipta Nayak, Sri Debaranjan Sarangi and Sri Akhanda, who are Human Rights Activists and Defenders are present. Pursuant to the direction of the Commission, Prof. Sitaram Mohapatra, Superintendent, Sahid Laxman Nayak Medical College & Hospital, Koraput is present and submits the photocopy of the treatment papers and the bed-head ticket of the victim, who was admitted into the SLN Medical College & Hospital, Koraput on 10th October, 2017 till her discharge from the hospital on 27-10-2017. In his confidential letter dated 8-11-2017, Prof. Mohapatra has also expressed his regret in not complying with the orders of the Commission because of late receipt of the communication from the Commission and he tenders his unqualified apology and prays to be excused. After hearing Dr. Mohapatra, his appearance is dispensed with.

The petitioners pray that they may be supplied with the medical examination report of the victim as well as that of the copy of the bed-head ticket and the copy of the enquiry report of the Addl. DG of Police, HRPC, Odisha, Cuttack dated 5-11-2017 so that they will be able to furnish their response in the matter.

Office is directed to supply the copies of the aforesaid papers to the petitioners and the case be posted to 27-11-2017.

All the petitioners urge before the Commission that the victim at the time of alleged occurrence was prosecuting her studies in class-IX in a Government school, but after the sordid incident she has been kept in a Child Care Institute, namely Shalom Children Home, Nighamaniguda, Dumuriput, Koraput, where she is only getting care and protection, but she has been deprived of her studies which ultimately tells upon her educational career. Accordingly, the petitioners pray that the Collector & District Magistrate of the district may admit the said victim to Ekalavya Model Residential School which is a reputed Government boarding school in Kunduli. Since it is reported that the victim belongs to village Kunduli, the prayer of the petitioners to get her admitted in Ekalavya Model Residential School, Kunduli appears reasonable and proper.

Accordingly, the Commission recommends the Commissioner-cum-Secretary to Government, ST & SC Development Department, Government of Odisha, Bhubaneswar and the Collector & District Magistrate, Koraput to get the victim girl admitted into Ekalavya Model Residential School so that the victim will prosecute her studies there and get better facilities in a congenial study atmosphere.

It is also prayed by the petitioners that the victim has been subjected to a severe traumatic condition and belongs to a very poor family and, therefore, on humanitarian ground some financial assistance be extended to the affected family to tide over the horrendous incident which has left a permanent sear on the future of the poor victim.

Perusal of the papers on record reveals that as per the recommendation of this Commission, the Collector & District Magistrate, Koraput has already extended financial assistance of Rs.10,000/- to the victim family. It is the trite law and 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 and it is the obligation of an Welfare State to see that its citizens live in a society without endangering their life and safety. The object of extending financial help is more based on compensatory theory and cannot be taken as a punitive element. The object is to apply balm to the wounds.

Taking into consideration that the victim belongs to an interior part of the Odisha in the district of Koraput and lives in a difficult situation and for the pain and sufferings she had to be hospitalised and to undergo treatment as per the admitted medical records of Sahid Laxman Nayak Medical College & Hospital, Koraput from 10-10-2017 till 27-10-2017 and also again re-admitted to the said Medical College & Hospital on 1-11-2017 and was treated there till 3-11-2017 and had to undergo various tests and medical examinations to assuage the feelings of the victim and her distressed family members, the Commission recommends to the Commissioner-cum-Secretary to Government, ST & SC Development Department, Government of Odisha, Bhubaneswar to extend financial assistance of Rs.50,000/- as an interim measure to the victim. The said amount be kept in a fixed deposit in any nationalised bank in village Kunduli or in a nearby place till the victim girl becomes major.

Copy of this order be furnished to the Commissioner-cum-Secretary to Government, ST & SC Development Department, Government of Odisha, Bhubaneswar and also to the Collector & District Magistrate, Koraput, who are to furnish the compliance report about such payment of monetary assistance to the Commission by 27-11-2017.

The petitioners further brought it to the notice of the Commission that the investigation of Patangi PS case No.102/2017 has been handed over to the CID, CB, Odisha, Cuttack and the CID, CB has sent its team to carry on the investigation in the said case.

Accordingly, the Addl. DG of Police, CID, CB, Odisha, Cuttack is requested to enlighten the Commission about the progress of investigation in four weeks' time.

Case No.2337/2017

Sri Akhanda Petitioner

Date: 20-11-2017

The petitioner is present and files a petition praying therein for financial assistance to the victim of acid attack, who is to undergo further treatment and also to provide other rehabilitatory assistance including a shelter as a special case of acid attack victim. The petitioner produces photocopy of the bed-head ticket as well as the discharge certificate granted by the Plastic Surgery Department of SCB Medical College & Hospital, Cuttack in respect of the victim of acid attack, so also the photocopy of the treatment papers of District Headquarters Hospital, Jagatsinghpur. The discharge certificate granted on 22-9-2009 reveals that the patient was admitted into the Plastic Surgery female ward on 19-4-2009 as a chemical burn injury case and she was discharged on 22-9-2009. The victim was again re-admitted to the SCB Medical College & Hospital, Cuttack on 22-9-2009 and was discharged on 16-10-2009. The bed-head ticket shows that the victim had 40% acid burn injuries, i.e. chemical burn injuries, facial burns, both eyes involved and it was a 4 degree burn injury case. The petitioner submitted that the victim is still undergoing the trauma and is under constant medical care and supervision and requires further reconstructive surgeries including eye surgery



and for undergoing the re-constructive surgeries the patient requires huge sum of money which she is incapable of arranging because of acute poverty.

Pursuant to the direction of this Commission, the Superintendent of Police, Jagatsinghpur has furnished his report stating therein that though in respect of Tirtol PS case No.79/2009 Final Report was submitted as FR true no clue on 5-5-2012, but the case has been re-opened on 4-9-2017 and Inspector of Police Balaram Nayak, who is the IIC, Tirtol PS is investigating the case and sincere efforts are being made to nab the accused persons and prayer has also been made to the Court for issuance of NBW of arrest against the accused Santosh Kumar Bedant. Perused the Xerox copy of the Final Form as well as the photocopy of the bed-head ticket of the victim Pramodini Roul. It is also reported by the SP, Jagatsinghpur that the medical examination report of the victim has not been obtained from the SCB Medical College & Hospital, but, however, sincere efforts are taken to obtain the injury report.

In view of this report of the SP, Jagatsinghpur when investigation of the case has been re-opened, let the case be adjourned to 12-1-2018 awaiting a further report from the SP, Jagatsinghpur about the fate of the case on hand.

The report of the Collector & District Magistrate, Jagatsinghpur reveals that the financial assistance of Rs.30,000/- has been paid to the victim Ms. Pramodini Roul out of the Chief Minister's Relief Fund initially. There are also papers on record to show that the State Government has extended further financial assistance to the tune of Rs.1 lakh to the victim of acid attack and the said amount was sanctioned by the State Government out of Chief Minister's Relief Fund on being moved by the Collector, Jagatsinghpur. The petitioner, who is also present before the

Commission, admits that the victim has already received the amount which was sanctioned by the State Government since July 2017.

The Commission feels it appropriate to bring to the notice of the Collector & District Magistrate, Jagatsinghpur that the Government in Home Department in their Notification No.48516 dated 26-12-2013 while amending the Odisha Victim Compensation (Amendment) Scheme, 2013, had added serial No.11 which speaks that financial assistance to the tune of Rs.3 lakh would be paid to the victim of acid attack. The Hon'ble Supreme Court of India in the case of Laxmi vs. Union of India and Others Writ Petition (Criminal) No.129/2006 relying on an earlier case, i.e. Laxmi vs. Union of India (2014) 4 SCC, 427 of the Apex Court of the country, ruled that the minimum compensation of Rs.3 lakh is to be paid to the victims of acid attack and in a later judgment, the Apex Court in the case of Parivartan Kendra vs. Union of India & Others (Writ Petition (Civil) No.867/2013) decided on 7-12-2015 observed that "this Court in Laxmi's case supra does not put a bar to Government to award a compensation limited to Rs.3 lakhs. The State has the discretion to provide more compensation to the victim in the case of acid attack as per Laxmi's case guidelines. It is also to be noticed that this Court has not put any condition in Laxmi's case as to the degree of injuries which a victim has suffered due to acid attack. x x x x Suffice is to say that the compensation must not only be awarded in terms of the physical injury, we have also to take note of the victim's inability to lead a full life and to enjoy those amenities which is being robbed of her as a result of acid attack. x x x x Furthermore, the State shall upon itself take full responsibility for the treatment and rehabilitation of the victims of acid attack as per the guidelines provided in Laxmi's case (2015) 5 SCALE 77, vide order dated 10-4-2015."



The directions issued by the Apex Court in *Laxmi vs. Union of India & Others* (Writ Petition (Criminal) No.129/2006) decided on 10-4-2015 by the bench presided over by Hon'ble Sri Justice Madan B. Lokur and Hon'ble Sri Justice Uday Umesh Lalit and later on followed by another decision of the Apex Court in *Parivartan Kendra supra* decided on 7-12-2015, it would be worthwhile to state as to what the State authorities to do with regard to the proper treatment, aftercare and rehabilitation of the victims of acid attack. A high level meeting was held on 14-3-2015 which unanimously decided that full medical assistance should be provided to the victims of acid attack and that private hospitals should also provide free medical treatment to such victims. In case of any reluctance on the part of some private hospitals to provide free medical treatment, the concerned officers in the State Government should take up the matter with the private hospitals so that they are also to provide free medical treatment to the victims of acid attack. The decisions taken in the meeting read as follows:

- “The State/UTs will take a serious note of the directions of the Supreme Court with regard to treatment and payment of compensation to acid attack victims and to implement these directions through the issue of requisite orders/notifications.
- The private hospitals will also be brought on board for compliance and the States/UTs will use necessary means in this regard.
- No hospital/clinic should refuse treatment citing lack of specialised facilities.
- First-aid must be administered to the victim and after stabilisation, the victim/patient could be shifted to a specialised facility for further treatment, wherever required.

- Action may be taken against hospital/clinic for refusal to treat victims of acid attacks and other crimes in contravention of the provisions of Section 357(C) of the Code of Criminal Procedure, 1973.

We expect the authorities to comply with these decisions.”

Their Lordships have also clarified what is meant by free medical treatment. Free medical treatment is not only provision of physical treatment to the victims of an acid attack, but also availability of medicines, bed and food in the concerned hospital. It is also directed that the hospital, where the victim of an acid attack is first treated, should give a certificate that the individual is a victim of acid attack. The said certificate may be utilised by the victim for treatment and reconstructive surgeries or any other scheme that the victim may be entitled to with the State Government or the Union Territory, as the case may be.

In the event of any specific complaint against any private hospital or Government hospital, the said acid attack victim will of course be at liberty to take further action.

A copy of the order of the Hon'ble Supreme Court in *Laxmi vs. Union of India & Others* appears to have been sent to the Ministry of Home Affairs and the Secretary in the Ministry of Health & Family Welfare for onward transmission and compliance to the Chief Secretary or their counterparts in all the States and Union Territories and direction was also given that the Chief Secretary will ensure that the order is sent to all the District Magistrates and due publicity is given to the orders of this Court.

Despite the specific direction of the Hon'ble Apex Court, instances are coming to the notice that the aforesaid directions of the Supreme Court are not being strictly followed by the authorities. In the instant case, the



victim, who is a poor girl of village Kanakpur Sasan under Tirtol PS limits, is still suffering. The victim says that she has to further undergo two more surgeries in respect of her left eye as well as right eye and further, she requires skin grafting and other reconstructive surgeries.

In the premises, the Commission recommends that the copy of this order be sent to the Chief Secretary of the State, the Additional Chief Secretary, Home Department, Principal Secretary, Women & Child Development Department, Social Security and Empowerment of Persons with Disability and Collector & District Magistrate of all the 30 districts along with the copy of the judgment of the Apex Court in *Laxmi vs. Union of India & Others* (Writ Petition (Criminal) No.129/2006), *Parivartan Kendra vs. Union of India & Others* (Writ Petition (Civil) No.867/2013) and *Ravada Sasikala vs. State of Andhra Pradesh & Another* decided on 27-2-2017 by the Bench presided over by Hon'ble Sri Justice Dipak Misra and Hon'ble Justice R. Banumathi.

The Commission after carefully examining the matter and perusing the photocopies of the medical examination report of the victim and the Bed-Head ticket of the Department of Plastic Surgery, SCB Medical College & Hospital, Cuttack recommends the State Government to extend further financial assistance to the tune of Rs.2 lakh to the victim of acid attack Ms. Pramodini Roul, daughter of late Ananta Roul of village Kanakpur Sasan under Tirtol Police Station limits in Jagatsinghpur district which would help her to meet the medical expenses for undergoing further reconstructive surgeries and for her sustenance.

The Commission appreciates the endeavour of the present Collector & District Magistrate, Jagatsinghpur, who have made commendable efforts to provide due governmental assistance and a robust moral

support system to the victim of the acid attack in the instant case. Let the present Collector & District Magistrate, Jagatsinghpur serve as exemplars. The Commission further expects that the district administration will extend complete assistance to the victim to help her recover from her trauma so that her quality of life improves and she can attend to her needs and fulfil her desire to live as a normal human being without being shunned by the society.

Similarly, the SP, Jagatsinghpur is expected to show exemplary action in bringing the perpetrators of the ghastly crime to justice so that public faith and trust can be restored in our policing system.

The Additional Chief Secretary, Home Department, Government of Odisha, Bhubaneswar as well as the Collector & District Magistrate, Jagatsinghpur are requested to furnish the compliance report with regard to the payment of further financial assistance to the victim of acid attack on or before 12-1-2018.

OHRC Case No.3134 of 2017

Sri Biswapriya Kanungo & Others

..... Petitioners

Dated : 6th March,2018

Like most societies custodial violence has always been a matter of great concern. Custodial violence could take the form of third degree methods to extract information. The method used need not result in any physical violence, but could be in the form of psychological violence. There must be a greater degree of sensitivity among those in authority with regard to the persons in custody and it has been the endeavour of the Courts of our country as well as human rights bodies over the decades to consistently flag this issue. But the results have been somewhat mixed, but the effort will continue as long as Article 21



remains in our Constitution. The message is very loud and clear, as also the message that the dignity of the individual is not a plaything for those in authority.

In the backdrop, the factual matrix, as unfolded before this Commission by three public spirited human rights defenders and activists, depicts that a poor innocent person, namely Abhaya Kumar Singh, aged about 45 years, a resident of village Palampur under Purulia PS limits of West Bengal had come to Sambalpur during 'Shitalasasthi' festival to do business. But as per the newspaper clipping of the 'Samaj' dated 21-6-2017, the deceased Abhaya Kumar Singh along with his younger brother Ajaya and brother-in-law Khata Singh were arrested by Sambalpur Police from 'Pirababa' crossing on 30-5-2017 and were kept in Town PS, Sambalpur and on the next day they were taken to Ainthapalli Police Station and then to Jujumura Police Station. After keeping them in different Police Stations for 7 days, ultimately Abhaya Singh was forwarded to Court on 7-6-2017 and that day he was remanded to judicial custody. It is alleged that when Abhaya Singh was remanded to custody, he was not able to stand properly and he was in a serious condition. He was having vomiting and there was bleeding while he was urinating. He was kept in jail for three days, but when his condition deteriorated, he was shifted to Burla Medical College on 10-6-2017 and while undergoing treatment, he breathed his last on 19-6-2017. It is alleged that while the deceased Abhaya Singh was in Police custody, he was subjected to severe assault, for which he died in the hospital. Thus, the human rights activists have approached this Commission to initiate action against the errant Police Officers, who subjected the victim to custodial torture leading to his death and for payment of adequate compensation to the next of kin of the deceased Abhaya Singh.

The Commission on receipt of the two complaints, while taking cognizance of the matter, directed the Addl. DG of Police, HRPC, Odisha, Cuttack to enquire into the matter and submit his report to the Commission. Similarly, the Superintendent, VIMSAR, Burla was requested to send the Bed-Head ticket and the copy of the post-mortem report of the deceased Abhaya Singh. Pursuant to the direction of this Commission, the Addl. DG of Police, HRPC, Odisha, Cuttack got the matter enquired into through Sri Srikrishna Behera, Addl. SP, HRPC, Cuttack. Perused the enquiry report of the Addl. SP, HRPC, Cuttack, which reveals that during enquiry he verified the records of Sambalpur Town Police Station, Ainthapalli Police Station and Jujumura Police Station, but could not get any information that Ajaya Singh, Abhaya Singh and Chandan Singh to have been taken to custody in any mobile phone theft case during the period from 30-5-2017 to 6-6-2017. But the records of Jujumura Police Station reveal that on 6-6-2017 around 1 pm while SI of Police, Sri Jugal Kishore Sa along with four other Police personnel were patrolling near Jujumura Railway Station, on getting reliable information detected accused Ajaya Singh, Chandan Singh of village Khaskinda, Silmaoara under Jumria PS limits and Abhaya Singh of village Turkimandir under Balarampur PS limits in the district of Purulia, West Bengal were carrying a 'Jari' bag and on seeing the Police personnel, they started running to conceal their presence. But the accused persons slipped and fell on a hard and rough surface and sustained injuries on their person. The Police party could nab them and Jujumura Police registered Jujumura PS case No.56 dated 6-6-2017 under Section 20(b)(ii)(c) of the NDPS Act. After medical examination at Jujumura CHC on 7-6-2017, the accused persons were forwarded to the Court of District Judge-cum-Special Judge, Sambalpur by the IIC, Sri Biswapati Panda of Jujumura PS. It is specifically reported that



when the accused persons were produced before the learned District Judge-cum-Special Judge, Sambalpur, the deceased Abhaya Singh and the co-accused persons, namely Chandan Singh and Ajaya Singh complained of illegal detention and torture by Police. After the death of Abhaya Singh UTP No.1139/17 corresponding to Trial Register No.57/2017, a judicial magisterial enquiry was initiated under Section 176(1-A) of the CrPC. Pursuant to the direction of the District Judge-cum-Special Judge, Sambalpur, the learned Addl. Senior Civil Judge-cum-JMFC, Sambalpur conducted the enquiry under Section 176(1-A) of the CrPC to find out the cause of death of the deceased UTP Abhaya Singh. The learned Magistrate, after a threadbare examination of the materials on record during enquiry and after examining the vital witnesses, found that the deceased Abhaya Singh had received injuries on his person while in Police custody. The said injuries could get aggravated as no timely medical treatment was provided. The learned Magistrate unequivocally arrived at the conclusion that the treatment records, evidence on record, the post-mortem findings, histopathological report, bed-head ticket and final opinion of the team of the doctors led him to the conclusion that the deceased Abhaya Singh might have died because of renal failure arising out of the injuries caused to his person. The team of doctors in their letter No.2961 dated 17-11-2017, letter No.2962 dated 17-11-2017 and letter No.2963 dated 17-11-2017 opined that it cannot be ruled out that the extensive injuries which were found on the person of the deceased contributed to renal failure.

Perused the Bed-Head ticket of VIMSAR, Burla which contains an endorsement that the patient received treatment in Circle Jail Hospital and then on 10-6-2017 he was referred to VIMSAR, Burla. The deceased attended Surgical OPD on 10-6-2017, but

refused hospitalisation. But then again attended SOPD on 11-6-2017 when he was admitted as an indoor patient and treatment continued till he breathed his last and declared clinically dead at 11:50 pm on 19-6-2017. He was diagnosed as an old case of Gluteal injury with B/L knee injury (Necrotising Fasciitis of B/L Gluteal Area) (Gangrene of Bilateral Gluteal Area). The post-mortem report of the deceased shows existence of as many as 8 injuries on the person of the deceased, namely:

1. Contusion of (3 cm x 2 cm) over dorsal aspect of left upper arm 8 cm below the shoulder joint.
2. Contusion of (3 cm x 3 cm) over dorsal aspect of left upper arm 13 cm below the shoulder joint.
3. Partially healed abraded contusion of (7 cm x 5 cm) over the dorsal of right forearm near elbow joint with blackness at centre and fatten scabs at peripheral area.
4. Contusion of (5 cm x 5 cm) on the outer aspect of middle 1/3 of right upper arm.
5. Contusion of (15 cm x 7 cm) are on the inner aspect of distal upper arm and proximal forearm around the elbow.
6. An infected wound almost circular wound with multiple pus points and debrided margins found on both buttocks measuring about diameter 10 cm each with foul smell and tissue sloughing is also found.
7. Another infected similar type circular wound of diameter about (8 cm x 6 cm) on right knee and (7 cm x 6 cm) on left knee dorsum with multiple pus points and debrided margins.
8. A linear abrasion of (1 cm x 0.25 cm) seen on the mid portion of the forehead



and another of (0.5 cm x 0.25 cm) on the right side of the nose.

The doctors, who conducted post-mortem over the dead body of the deceased, opined that all the injuries which were detected on the person of the deceased were ante-mortem in nature and might have been caused by hard and blunt force impact except the injuries mentioned at 6 & 7 within 12 days of the date of post-mortem which was held on 20-6-2017.

In the instant case, the death of the deceased Abhaya Singh while in custody is an admitted fact. It is also an admitted fact that the deceased and other accused persons had complained before the learned District Judge-cum-Special Judge, Sambalpur about the illegal detention and torture in Police custody. The learned Magistrate in his enquiry report has categorically observed in Para-8 that though the deceased Abhaya Singh was kept in jail medical ward vide Ward No.11/A, but no medical treatment was provided to him so also on 8-6-2017. The jail Medical Officer treated the deceased Abhaya Singh on 8-6-2017 and, therefore, the deceased was not provided with any medical treatment on the day when he was admitted into the Circle Jail, Sambalpur. It is also revealed from the enquiry report that though the doctor advised to admit the UTP into VIMSAR, Burla, but the deceased was not admitted on 10-6-2017 and he was returned back to the Circle Jail as Warder Gopal Karmee refused to admit the patient in VIMSAR, Burla. The specific observation of the learned Magistrate during his enquiry under Section 176(1-A) of the CrPC is that the deceased Abhaya Singh had received injuries on his person while in Police custody caused by Police personnel, but he has disbelieved the presence of Sri Akhileswar Singh, the then SP, Sambalpur at Bareipali Police Out-Post as there is no evidence to reveal if he had ever visited the said Out-Post

7 days or more prior to registration of Jujumura PS case No.56 dated 6-6-2017.

The plethora of materials on record unerringly revealed that the deceased Abhaya Singh had ante-mortem injuries on his person on different parts of his body and the injuries which were found on the Gluteal Area had led to severe infection leading gangrene and that probably led to the renal failure resulting in the death of Abhaya Singh.

Custodial violence/torture and abuse of Police power are not peculiar to our country, but it is widespread. Using any form of torture for extracting any kind of information would neither be right nor just or fair, hence, impermissible and offensive to Article 21 of the Constitution. A crime suspect may be interrogated and subjected to sustained and scientific interrogation in the manner determined by the provisions of law, but no such suspect can be tortured or subjected to third degree methods or eliminated with a view to eliciting information, extracting a confession or deriving knowledge about his accomplices, weapons etc. Constitutional rights of a suspect cannot be abridged except in the matter permitted by law, though in the very nature of things there would be a qualitative difference in the method of interrogation of such a person as compared to an ordinary criminal. The Universal declaration of Human Rights, 1948 marked the emergence of a worldwide trend of protection and guarantee of certain basic human rights stipulated in Article 5 that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". Despite this pious declaration, the crime continues unabated, though every civilised nation shows its concern and makes efforts for its eradication.

Article 21 of the Constitution of India is a part of the scheme for fundamental rights which occupies a place of pride in the Constitution. This Article mandates that no



person shall be deprived of his life and personal liberty except according to the procedure established by law. Life or personal liberty includes a right to live with human dignity. It is, therefore, difficult to comprehend how torture and custodial violence can be permitted to defy the rights flowing from the Constitution. The dehumanising torture, assault and death in custody which have assumed alarming proportions raise serious questions about the credibility of rule of law and administration of criminal justice system. The community rightly gets disturbed. The cry for justice becomes louder and warrants immediate remedial measures. This message goes out loud and clear, as also the message that the dignity of the individual is not a plaything for those in authority.

Rarely in cases of Police torture or custodial death, direct ocular evidence of the complicity of the Police personnel alone, who can only explain the circumstances in which a person in their custody had died. It is not unknown that because of the ties of brotherhood at times the Police personnel prefer to remain silent to save their colleagues.

In the instant case, the Police Officers have tried their best to wipe out their involvement in keeping the deceased and other accused persons in their custody and the learned Magistrate, during his enquiry under Section 176(1-A) of the CrPC, disbelieved the prosecution story that the deceased Abhaya Singh and his associates while running away to avoid being caught by Police fell on rocky and hard surface and sustained injuries. There are ample materials on record to show that the deceased Abhaya Singh was denied treatment in Sambalpur Circle Jail and he was also not even admitted into VSS Medical College & Hospital, Burla on 10-6-2017 when he was referred to that hospital.

The macabre story of Police torture and negligence in the treatment of the deceased

is a slur on the State and its agencies whose fiduciary responsibility is to use the authority of the State for the protection of life and liberty of its people and not against them. When the solemn authority of the State is abused for such gross infringement of the fundamental rights of the deceased, under Article 21 of the Constitution of India the State is to pay compensation for the unnatural death in custody and that issue is no longer *res integra*. Refusal to pass an order of compensation would amount to be doing mere lip service to the fundamental right of liberty of the deceased under Article 21 of the Constitution which in this case the State Government had so grossly violated. The Apex Court in the case of *Re-Inhuman Conditions in 1382 Prisons vs. State of Assam* in Writ Petition (Civil) No.406/2013 observed that “if civilisation is not to perish in this country as it has perished in some others too well known to suffer mention, it is necessary to educate ourselves into accepting that, respect for the rights of individuals is the true bastion of democracy.”

The Apex Court in a case as reported in (1984) 3 SCC 82 and (1993) 2 SCC 746 observed that in case of a custodial death compensation was awarded under Article 32 of the Constitution. It was held that a public law remedy was certainly available to claim compensation for the contravention of human rights and fundamental rights which are protected as a guarantee by our Constitution. The claim is based on the principle of strict liability to which the defence of sovereign immunity is not available. The object of monetary or pecuniary compensation is to apply balm to the wounds and not to punish the transgressor or the offender. The award of compensation in the public law jurisdiction is also without prejudice to any other action like civil suit for damages which is lawfully available to the victim or the heirs of the deceased victim with respect to the same



matter for the tortuous act committed by the instrumental agent of the State.

The quantum of compensation depends upon the peculiar facts of each case and no strait-jacket formula can be evolved in that behalf.

Providing medical assistance and facilities to inmates in prisons needs no reaffirmation. The right to health is undoubtedly a human right and the State Government should concentrate on making this a reality for all, including prisoners.

Taking a holistic view of the case on hand, the Commission feels it appropriate that monetary compensation needs to be paid to the hapless widow of late Abhaya Singh under Section 18(a)(i) of the Protection of Human Rights Act, 1993 and, accordingly, the Commission recommends that an amount of Rs.3,00,000/- (Rupees three lakh) is to be paid to Smt. Heena Singh, the widow of the deceased Abhaya Singh of village Turkimandir under Balarampur PS limits in the district of Purulia, West Bengal.

The above recommendation be communicated to the Additional Chief Secretary, Home, Government of Odisha, Bhubaneswar to furnish the report of compliance with regard to the payment of compensation to Smt. Heena Singh, the widow of the deceased Abhaya Singh, in 8 weeks' time.

OHRC Case No.4893 of 2016

Kenedi Pradhan & Another
.....Petitioners

O R D E R

Dated: 27th March, 2018

The main grievance of the petitioners is that in utter disregard to the provisions contained in Section 41(1)(a) and (b) and 41-A of the Code of Criminal Procedure and in

utter disregard to the mandate of the Apex Court enunciated in Arnesh Kumar Vrs. State of Bihar (AIR2014 SC 2756) and the guidelines issued by the Apex Court in D.K. Basu - Vrs. - State of West Bengal AIR 1976 SC 6910 they were illegally arrested on 20.11.2016 around 5.30 P.M. by Purighat Police and subsequently were handed over to Lalbag Police where they are confined in police lock up and were forwarded to the court around 5.30 P.M. on 21.11.2016.

The case of the petitioner is that on the basis of one FIR lodged by one Rabindra Rout, the IIC, Lalbag Police Station namely Sri Debadutta Baral registered Lalbag P.S. case No.162 dated 17.11.2016 under Sections 341, 323, 294, 506 of the I.P.C. read with Section 34 of Indian Penal Code and investigation of the case was handed over to Sri Laxmidhar Majhi who was S.I. of Police attached to Lalbag Police Station. In connection with the case the two petitioners were taken into custody and while in Lalbag P.S. the petitioners were forced by S.I. of Police Sri Laxmidhar Majhi and one Lingaraj Hati to compromise the case with the informant Rabindra Rout and to withdraw S.T. Case No.240 of 2012 and when they did not agree to the proposal the said S.I. of Police Laxmidhar Majhi along with Lingaraj Hati dealt kick, pushes to the complainant. When they were arrested their relations, family members or any of their friends were not intimidated and their signatures were obtained on the memo of arrest making them to believe that they will execute bail bond so that they will be released on bail. They had complained before the S.D.J.M. about the ill treatment meted out them when the police produced before the learned court on 21.11.2016. Thus, alleging that though the offences are bailable in nature but in utter disregard to the mandate of law they were deprived of their liberty as enshrined in the Constitution of India and by misuse of power their personal liberty was curtailed and



therefore the Inspector In-charge of Lalbag Police Station namely Debadutta Baral as well as S.I. of Police Sri Laxmidhar Majhi are to pay Rs.10 Lakhs by way of compensation to each of them and appropriate departmental action be initiated against Sri Debadutta Baral who was then IIC, Lalbag Police Station and Sri Laxmidhar Majhi, the S.I. of Police. The petitioners while filing the complaint have annexed the photocopy of the FIR in Lalbag P.S. case No.162 dated 17.11.2016 and other materials like Annexure-4, Memo of arrest of both the petitioners, the Check List under Annexure-5 etc.

The Commission called for a report from the D.C.P., Cuttack. The DCP, Cuttack entrusted the enquiry to IIC, Lalbag P.S. and during enquiry by Lalbag Police Station it was ascertained that in connection with Lalbag P.S. case No.162 dated 17.11.2016 under Sections 341, 323, 294, 506 of the I.P.C. read with Section 34 of Indian Penal Code. The petitioners were arrested as prima-facie evidence was established against them. During the course of the investigation and raised personal liberty of the petitioners were not affected at any point of time and all proper procedure was adhered to while arresting the complainants.

Perused the photocopy of the report of the Inspector In-charge, Lalbag Police Station dated 4.1.2017 which was addressed to the DCP, Cuttack. From the report of the IIC, Lalbag Police Station namely Debadutta Baral, it is seen that he has admitted about the registration of Lalbag P.S. case No.162 dated 17.11.2016 under Sections 341, 323, 294, 506 of the IPC read with Section 34 of Indian Penal Code on the written report of Rabindra Rout and the investigation was entrusted to S.I. of Police Sri Laxmidhar Majhi. In Para-4 the Inspector of Police attached to Lalbag P.S. namely Sri Debadutta Baral has quoted Section 503 IPC to elaborate as to what constitute an

offence under Section 506 IPC and he has gone to the further extent in stating that Section 506 of the IPC was added to other penal provisions in Lalbag P.S. case No.162 dated 17.11.2016 as the accused persons threatened the complainant to entangle him in 10 to 15 false cases and put him in jail. In Para-11 also Sri Baral the then IIC of Lalbag Police Station has admitted that the accused persons committed offences which are punishable with imprisonment for a term which is less than seven years with or without fine. No notices under Section 41A Cr.P.C. was served on the petitioner as it appeared that they are likely to commit similar offence and there was apprehension that they would abscond from the locality and not comply with the terms and conditions of the notices and hence there was no violation of the dictum of the Hon'ble Apex Court in Arnesh Kumar - Vrs- State of Bihar supra. He has admitted in Para-14 that in the Check list i.e. under Annexure-5 series in Col. No.7 it has been mentioned that notices were not served on the complainants. Regarding the arrest of the two complainants on 20.11.2016 in connection with Lalbag P.S. case No.162/2016 the same has been admitted in Para-6 and it is also admitted that complainants were detained near Police Station Hazat inside the Police Station complex and not in the P.S. Hazat as has been wrongly noted in CD No.II. The entry in C.D. No.II was a slip of pen.

After receiving the report from the DCP, Cuttack and on perusing the photocopy of the enquiry report of the IIC namely Debadutta Baral and after hearing the learned counsel for the petitioners the Commission directed Sri Debadutta Baral, IIC as well as Laxmidhar Majhi @ Lambodar Majhi both attached to Lalbag Police Station to furnish their written response to the allegation made against them on 27.2.2017 at 11 A.M. Pursuant to the direction of the Commission both Mr. Baral



and Mr. Majhi of Lalbag Police Station appeared before the Commission on 27.2.2017 and furnished their separate responses. The Commission heard both the Police Officers present on 27.2.2017.

Perused the written submission/written response of Inspector In-charge, Lalbag Police Station Sri Debadutta Baral dated 26.2.2017. On perusal of both the written responses it appears that though they have admitted about the arrest of the two petitioners on 20.11.2016 and also admitted that they were brought to the Police Station and detained near P.S. Hazat inside the Police Station but not in the P.S. Hazat as has been wrongly mentioned in CD No.II. They have also admitted that no notice under Section 41A of Cr.P.C. has been served on the complainants. It is the specific plea that the complainants were not arrested mechanically or whimsically and the guidelines of the Hon'ble Apex Court of India were scrupulously followed and there was no violation of law as laid down by the Hon'ble Apex Court of India in the case of Arnesh Kumar - Vrs.- State of Bihar.

The Commission perused the photocopy of the memo of arrest i.e. Annexure-A series as filed by the IIC, Lalbag Police Station Sri Baral. Col.6 of the Memo of Arrest is meant for noting the name of witnesses, family Members, respectable persons of their area where the arrest was made and their signatures obtained but there is only one entry against Col.6 that the family members of Kenedi Pradhan and Utkal Mulia were intimidated through IIC, Purighat P.S. This clearly shows that there was a flagrant violation of the guidelines spelt out in D.K. Basu's case supra. In D.K. Basu case supra the Apex Court has stated that the Police Officer carrying out the arrest shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness who may be either a member of the family of the arrestee

or a respectable person of the locality from where the arrest is made. It shall also be countersigned by the arrestee and shall contain the time and date of arrest.

A person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock-up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee.

The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the Legal Aid Organization in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.

The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.

An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is.

Thus, on perusal of the Annexure-A series namely the photocopy of arrest memo and the written response of the two police officers the then IIC, Lalbag Police Station Sri Baral and arresting officer Sri Majhi, S.I. of Police and from the overall materials available on record it can safely be concluded that the Police Officer especially the arresting officer Sri Majhi has not followed the eleven guidelines



as spelt out in D.K. Basu's case supra when the two complainants were taken into custody on the evening of 20.11.2016 and detained at Lalbag Police Station that sufficiently amounts to taking them into custody and their liberty was taken away even if the plea of the two police officers believed that they were not kept in the police lock-up but were detained near the police lock-up. This explanation which has been given by the two police officers appears to be totally unacceptable and unbelievable.

Now coming to the settled position of law i.e. provisions of Section 41(1)(b) of the Cr. P.C. the Commission has no hesitation in mind to hold that such statutory provision in law has not been adhered to by the Investigating Agency. It has not been mentioned anywhere in two arrest memos that the apprehension of the arrested persons was intimated to any of the relatives and friends and their signatures were obtained. There is also no material on record to show that before effecting arrest or apprehending the two petitioners, if any, preliminary enquiry prima-facie was made as envisaged under law. When the two Police Officers have admitted that on the written report of Rabindra Rout Lalbag P. S. Case No.162 was registered under Sections 341/323/294/506 read with Section 34 of Indian Penal Code and when the Inspector In-charge of Lalbag Police Station in his report to the DCP, Cuttack has explained the meaning of Section 506 of IPC which necessitated him to register a case against the accused persons under Section 506 of IPC the same is very fallacious in nature and leads to the Commission drawn adverse inference that the Police Officers were bent upon in curtailing liberty of the two citizens i.e. the petitioners. Sections 341, 323, 294 and 1st part of the offence under Section 506 IPC are all bailable in nature.

Perusal of the FIR lodged by Rabindra Rout before the IIC, Lalbag P.S. on 17.11.2016 reveals that while he was coming out of the court of the Addl. Session Judge-Cum-ACJM (Special), Cuttack after deposing in ST case No.240/2012 accused Bansidhar Baug pulled his banyan and dealt a heavy slap and abused him saying "SALA, MAGIHA, MADURCHOD, KETE TANKA NEI MICHHA SAKHI DEUCHU" and when he protested Kenedi Pradhan and Utkal Mulia gave a push and abused him saying "SALA, MADURCHOD, MAGHIA TO NARE MICHA CASE KARI JAILPATHAIBU. KEUN SAHI BALA TO PITHIRE PADIB. AMMARA SEMANE KANA CHHODIBE DEKHIBU. MORA GENJI CHIRIGALA" and after three to four boys of their Sahi intervened, the accused persons left the spot. On simple perusal of the allegation contained in FIR on the basis of which Lalbag P.S. case No. 162/2016 was registered, there is no whisper if the accused persons had hurled any threat or criminally intimidated the petitioner to cause his death or to cause grievous hurt. Simply causing criminal intimidation is punishable two years, or with fine, or both. It is a non-cognizable offence and bailable in nature. Similarly, Section 341 of the IPC though is a cognizable offence but the punishment prescribed is simple imprisonment for one month, or fine of Rs.500/-, or both and the offence is bailable, Section 323 of IPC is non-cognizable offence, the imprisonment prescribed is for one year, or fine of 1000 rupees, or both and bailable in nature, Section 294 of IPC is bailable in nature and the punishment prescribed with imprisonment, fine or both. So when all the offences prima-facie appears bailable the explanation which has been furnished by the IIC, Lalbag Police Station so also arresting officer Sri Majhi are totally silent as to how they could detain the accused persons even though the alleged offences are bailable in nature and even bail was not afforded to them or they were never asked



to go on PR bond. It is the settled position of law that “no arrest can be made because it is lawful for the police officer to do so. The existence of the power to arrest is one thing. The justification for the exercise of it is quite another. No arrest should be made without a reasonable satisfaction reached after some investigation as to the genuineness and bonafides of a complaint and a reasonable belief both as to the person’s complicity and even so as to the need to effect arrest. Denying a person of his liberty is a serious matter”. In *Joginder Kumar Vrs. State of UP* (AIR 1994 SC 1349), in *Arnesh Kumar - Vrs. -State of Bihar and another*, the Apex Court while dwelling upon the concept of arrest was compelled to observe thus:

“Arrest brings humiliation, curtails freedom and casts scars forever. Lawmakers know it so also the police. There is a battle between the lawmakers and the police and it seems that the police has not learnt its lesson: the lesson implicit and embodied in Cr.P.C..It has not come out of its colonial image despite six decades of Independence, it is largely considered as a tool of harassment, oppression and surely not considered a friend of public. The need for caution in exercising the drastic power of arrest has been emphasised time and again by the courts but has not yielded desired result. Power to arrest greatly contributes to its arrogance so also the failure of the Magistracy to check it. Not only this, the power of arrest is one of the lucrative sources of police corruption. The attitude to arrest first and then proceed with the rest is despicable. It has become a handy tool to the police officers who lack sensitivity or act with oblique motive”.

In the said Judgment the Apex Court referred to Section 41 of the Cr.P.C. and after analyzing the said provision, opined that “a person accused of an offence punishable with imprisonment for a term which may be

less than seven years or which may extend to seven years with or without fine, cannot be arrested by the police officer only on his satisfaction that such person had committed the offence. It has been further held that a 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. These are the conclusions, which one may reach based on facts. Eventually, the Court was compelled to state:

In pith and core, the police officer before arrest must put a question to himself, why arrest? Is it really required? What purpose it will serve? What object it will achieve? It is only after these questions are addressed and one or the other conditions as enumerated above is satisfied, the power of arrest needs to be exercised. In fine, before arrest first the police officer should have reason to believe on the basis of information and material that the accused has committed the offence. Apart from this, the police officer has to be satisfied further that the arrest is necessary for one or the more purposes envisaged by sub-clauses (a) to (e) of clause (1) of Section 41 Cr.P.C..

In the said authority, Section 41-A Cr.P.C., which has been inserted by Section 6 of the Code of Criminal Procedure (Amendment) Act, 2008 (5 of 2009) was introduced and in that context, it has been held that Section 41-A Cr.P.C. makes it clear that where the arrest of a person is not required under Section



41(1) Cr.P.C., the police officer is required to issue notice directing the accused to appear before him at a specified place and time. Law 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. At this stage also, the condition precedent for arrest as envisaged under Section 41 Cr.P.C. has to be complied and shall be subject to the same scrutiny by the Magistrate as aforesaid”.

Dignity, as has been held in *Charu Khurana V. Union of India* (AIR 2015 SC 839) is the quintessential quality of a personality, for it is a highly cherished value. It is also clear that liberty of the petitioner was curtailed in violation of law. The freedom of an individual has its sanctity. When the individual liberty is curtailed in an unlawful manner, the victim is likely to feel more anguished, agonized, shaken, perturbed, disillusioned and emotionally torn. It is an assault on his / her identity. The said identity is sacrosanct under the Constitution. Therefore, for curtailment of liberty, requisite norms are to be followed. Fidelity to statutory safeguards instil faith of the collective in the system. It does not require wisdom of a seer to visualize that for some invisible reason, an attempt has been made to corrode the procedural safeguards which are meant to sustain the sanguinity of liberty. The investigating agency, as it seems, has put its sense of accountability to law on the ventilator. (AIR 2016 SC 2679 *Dr. Rini Johar and another Vrs. State of M.P. and others*).

That all power is a trust- “that we are accountable for its exercise- that, from the people and for the people, all springs and all must exist”.

In the case at hand there has been violation of Article 21 and the petitioners

were compelled to face humiliation. They have been treated with an attitude of insensibility. Not only there are violation of guidelines issued in the case of *D.K. Basu* (in AIR 1997 SC 610) and also there are flagrant violation of mandate of law enshrined under Section 41 and Section 41-A of Cr.P.C. The investigating agency in no circumstances can flout the law with brazen proclivity. It also has to come out of its colonial image and be considered as not a tool of harassment, oppression. The attitude to arrest first and then proceed with the rest is despicable. It has become a handy tool to the police officers who lack sensitivity or act with oblique motive. In such a situation, the public law remedy which has been postulated in *Nilawati Behra* case in AIR 1993 SC 1960, *Sube Singh Vrs. State of Haryana* in AIR 2006 SC 1117 and *Hardeep Singh Vrs. State of M.P.* in AIR 2012 SC 1751, comes into play. The majesty of law protects the dignity of a citizen in a society governed by law. It cannot be forgotten that the Welfare State is governed by the rule of law which has the paramouncy. When citizenry rights are sometimes dashed against and pushed back by the members there has to be a rebound and when the rebound takes place Article 21 of the Constitution of India springs up to act as a protector.

Thus, taking an holistic view of the entire fact situation, the Commission think it appropriate to recommend that for the alleged violation of Human Rights of the two petitioners the State is under obligation to compensate the two petitioners by paying them each One Lakh rupees (Rupees 1 Lakh) within three months hence and for such gross violation of the mandate of the Supreme Court of India in *Arnesh Kumar - Versus- State of Bihar*, the State may proceed against the erring officers if so advised.

These recommendations of Commission are made under Section 18(a) (i) (iii) of the



Protection of Human Rights Act, 1993. Copy of this order be sent to the Addl. Chief Secretary, Home and Director General of Police, Odisha, Cuttack for compliance.

Case No.3899/2016

Sri Biswapriya Kanungo Petitioner

Order date: 29.03.2017

The petitioner Shri Biswapriya Kanungo, Advocate & HR activist, Bhubaneswar enclosing a photocopy of the news item under the caption "**Mahanga Thanare Police Atyachar-Table Godare 4 Dina Bandha Hele Bhinakhayama**" to his petition dated 17.9.2016 alleged that a physically challenged person namely Jagannath Das was detained illegally for four days in Mahanga Police Station in Cuttack by tying his leg to the leg of a table with the help of a hand-cuff though he was not involved in any cognizable offence. The petitioner also alleged that such treatment meted out to Jagannath Das in the Police Station caused both physical and mental torture to him.

Apart from the enquiry conducted by the S.P., Cuttack through the SDPO, Salipur into the alleged incident, the Commission also conducted a parallel enquiry through a D.S.P. of its own Investigation Wing.

Perused the enquiry report of the SDPO, Salipur which was sent by the S.P., Cuttack in its letter dated 18.10.16. The enquiry report speaks that the IIC, Mahanga Police Station on getting proper information about the involvement of one Jagannath Das of village Jaleswarpur in Mahanga PS Case No.164 dated 4.9.2016 which was registered under Section 392 IPC, he was picked up by the police from his house in the early morning of 16.9.16 to the Police Station and was kept there, and while the accused attempted to run away from the Police Station, the IIC felt it imperative to instruct the Sentry Constable to

put a handcuff to his leg to scuttle his attempt to escape from police custody. During police custody, the accused Jagannath Das complained of chest pain, and accordingly, he was sent to the Medical Officer, Mahanga CHC, who upon examining him decided to refer him to the SCB Medical College & Hospital, Cuttack for necessary treatment. While the matter stood thus, Biswanath Das, the elder brother of the accused Jagannath Das requested the IIC, Mahanga PS to release him on bail as he has past history of chest problem and the IIC considering such request released the accused Jagannath Das upon execution of a bail bond, who being accompanied by his elder brother left for his house at 4.00 PM.

The report further speaks that the accused Jagannath Das was not having any sign of physical disability and no abnormal behaviour was noticed by the IIC during the period of his detention in the Police Station. The report refuted the allegation of detention of the accused for four days in Mahanga Police Station. Further, neither the accused nor his brother had made any allegation about any custodial violence and detention of the accused in the Police Station for four days as published in the newspaper.

Also perused the enquiry report of Shri B.Satapathy, D.S.P., Investigation Wing of the Commission which has been submitted through the Director Investigation-cum-Addl. DGP in its letter dated 24.10.16.

The enquiring officer has in fact taken pains to go into the details of the allegation of the petitioner and for the purpose of a full-fledged enquiry he had visited Mahanga P.S., the villages Jaleswarpur and Kuanpala and other places as well four times, examined the victim, his family members, villagers, journalist, who collected the news and the police personnel of Mahanga PS and also collected relevant documents to find out the veracity of the allegation.



The enquiring officer has focussed his enquiry mainly on the issues such as (i) whether, the accused was detained at Mahanga PS for four days contravening the law prescribed under Section 57 of the Cr.PC, (ii) whether, the accused is a physically challenged person and (iii) whether during his detention at the Police Station, the accused was handcuffed on his leg contravening the hazat rules amounting to physical torture and humiliation.

As regards allegation No.(i) mentioned above, the enquiring officer has mentioned that the IIC, Mahanga PS in Mahanga PS Case No.164 dated 4.9.16 apprehended one Balaram Samal from his house in the village Jaleswarpur on the night of 15.9.16 and during interrogation, he disclosed the name of Jagannath Das, son of Bairagi Charan Das and Smt. Minalata Das of his village who was also one of his associates in the crime committed by him on 30.8.16. The police party while lifting the accused Jagannath Das from his house duly informed his mother Smt. Minalata Das about the purpose of taking him to the Police Station. The allegation that the accused Jagannath Das was brought to Mahanga PS on 12.9.16 could not be substantiated as the victim, himself, his family members as well as the villagers have unequivocally denied the same. It is a fact that, the accused was brought to the Police Station on 16.9.16 at 5.00 AM and was kept there till he was released on bail on medical grounds at 4.00 PM on the same day.

As regards the allegation No.(ii), the enquiring officer has mentioned that it is a fact that Station Watch Constable No.368 Basanti Goipai has put handcuff on the right leg of the accused Jagannath Das and tied it with a table inside the Police Station. The lady Constable Basanti Goipai in her statement has admitted to have put the handcuff on the leg of the accused Jagannath Das and tied it

with a leg of the table as the handcuff could not be fixed on his hand. She further admitted that as none other than her was present in the Police Station at a particular point of time, she thought it prudent to keep the accused under fetters as he attempted to escape. However, when the IIC returned to the Police Station after some time, he instructed her to remove the handcuff. Being confronted, the concerned lady Constable admitted that handcuffing on the leg of the accused is contrary to the Hazat rules. The enquiring officer has also mentioned that when the lady Constable kept the accused Jagannath Das in such a condition inside the Police Station, the Diary Charge Officer ASI Badal Kumar Mallick was very much present at the Police Station. Hence the lady Constable's statement that there was no other police personnel in the Police Station except herself at the relevant point of time was nothing but a blatant lie. Further she gave two contradictory statements with regard to removal of handcuff from the leg of the accused Jagannath Das. She at one time stated that after the IIC returned to the P.S, he instructed her to remove the handcuff from the leg of the accused and she in her written statement said that having seen the ASI Badal Kumar Mallick returning to the Police Station, she herself removed the handcuff from the leg of the accused.

Shri Bijay Kumar Bisi, IIC, Mahanga PS in his statement said that when he at about 12.30 PM returned to the Police Station found that the right leg of the accused Jagannath Das has been handcuffed and accordingly instructed the ASI of Police Shri B.K. Mallick to remove it.

Shri Badal Kumar Mallick, ASI of Police in his statement has said that on 16.9.16 at about 11.45 AM, he went out of the Police Station on some work and on return found that the lady Constable Basanti Goipai had put



handcuff on the accused's leg. However, the IIC, who just returned to the PS asked the lady Constable to remove the handcuff from the leg of the accused Jagannath Das.

From their statements, there is no scintilla of doubt that it was the lady Constable Basanti Goipai, who actually kept the accused under fetters inside the Police Station. However, the enquiring officer was of the view that the Diary Charge Officer ASI Shri Badal Kumar Mallick was also present at the Police Station when the accused Jagannath Das was kept under fetters. The enquiring officer held both Shri Badal Kumar Mallick, ASI of Police and the lady Constable Basanti Goipai responsible for such illegal fettering in contravention of Hazat rules.

As for the allegation No.(iii), the enquiring officer had discussed the matter with the accused Jagannath Das, his mother Smt. Minalata Das, Shri Biswanath Das, a villager of Jaleswarpur and Shri Mrutyunjay Baral, a distant relative of the accused and all of them said that Jagannath Das is not at all a disabled person and he has neither any disability certificate nor is in receipt of any disability pension, but he is a stammer since his childhood.

On a careful study of both the reports, the Commission feels that except the allegation of handcuffing the accused Jagannath Das, the other two allegations are not proved. It is proved beyond doubt that the accused Jagannath Das was kept under fetters by the lady Constable Basanti Goipai in Mahanga Police Station even during the presence of the Diary Charge Officer, ASI of Police Shri Badal Kumar Mallick.

It needs no emphasis that the guarantee of human dignity forms part of our Constitutional culture as embodied in Articles 14, 19 and 21 of the Constitution of India.

Even a prisoner is a person and not an animal. Handcuffing is prima facie inhuman and, therefore, unreasonable. To bind a man in hand and foot, fetter his limbs with hoops of steel, shuffle him along in the street and stand him for hours in the courts is to torture him, and defile his dignity.

Insurance against escape does not compulsorily require handcuffing. There are other measures whereby an escort can keep a detainee in safe custody. When there was no compulsive need to fetter a person's limbs, it is sadistic, caparicious, despotic and demoralizing to humble a man by manacling him.

In the instant case, no case has been made out by the State that no other practical way was available to prevent escape of the victim Jagannath Das. Admittedly, Jagannath Das while being detained in Mahanga Police Station had complained of chest pain, for which he was taken to the Medical Officer, Mahanga CHC and when the doctor found it to be a case of chest pain, then he was let off from the Police Station at 4 PM.

It is a lame excuse that Jagannath Das was kept on fetter or menacle to prevent his escape. There was no valid justification for infringement of his valuable Constitutional rights as a free citizen of the country. Vague surmises or general averments is taken as ruse to give legality to an overtly illegal act,

That the liberty of Jagannath Das was curtailed by putting him under fetters smacks of highhandedness of the Police Officers despite the direction of the Apex Court of the country in *Prem Shankar vs Delhi Administration* (AIR 1980 SC) 1535. There are numerous instances where in a routine manner without any specific orders of the Magistrate, the Police is handcuffing persons who are picked up even on suspicion of commission of an offence, and the present case is one of such examples.



Thus for the faults and failings of those two police personnel namely Shri Badal Kumar Mallick, ASI of Police and Basanti Goipai, lady Constable, the Commission recommends to the DG & IG of Police to take appropriate departmental action against those two errant police personnel.

The Commission further desires that Police Officers manning different Police Stations across the State be sensitized about the mandate of the Apex Court of the country in Prem Shankar vs Delhi Administration and also the guidelines of the NHRC relating to restraining the liberty of any person suspected of committing an offence by handcuffing or putting him under fetters in a routine manner. It is to be borne in mind that to prevent

escape of an under-trial is in public interest, reasonable, just and cannot, by itself be castigated. But to bind a man hand and foot, fetter his limbs with hoops of steel, shuffle him along in the street and stand him for hours in the courts is to torture him, and defile his dignity, vulgarize society and foul the soul of our Constitutional culture.

With the aforesaid observation and direction, the case stands disposed of. A copy of this order be sent to the Principal Secretary to Govt., Home Department, Odisha, Bhubaneswar and D.G. & I.G. of Police, State Police Headquarters, Cuttack for necessary compliance of the order in forty-five days hence.





CHAPTER - 5

COMPENSATION AWARDED DURING 2017-18

As mandated under section 18 (a) (i) of the Protection of Human Rights Act, 1993, the Commission recommended Compensation/relief to the victim or the members of his/her family to be paid by different Government authorities. The details of the Compensation/relief awarded during 2017-18 are indicated below :

Sl No	Case No	Name of the Petitioner/ Suo-Motu	Date of Award	Amount	Cause of Violation	Compliance by Public Authority
1.	1380, 1719, 5726, and 4938/2015	Sri Prabir Kumar Das	10-05-2017	Rs. 2,00,000/-	The compensation amount to be paid to Sri Basudev Naik the father of the deceased girl Sujata Naik of village Baipada under Pattamundai Police Station limits in Kendrapara District for the loss of his daughter owing to negligence in providing treatment in CHC Pattamundai. The Commission further desires that the said amount of compensation be recovered from Dr. Bhaskar Chandra Kar, Ex-Medical Officer In Charge, CHC, Pattamundai as he was found negligent in attending the girl patient even though he was very much present in the hospital himself at the arrival of the patient.	The order of the Commission has already been stayed by the Hon'ble High Court of Odisha, in W.P. (C) case no-13252/2017 and further intimation of the Hon'ble Court is awaited.
2.	594/2017	Jugal Charan Das	11-05-2017	Rs. 20,000/-	The compensation amount to be paid to the victim boy Gyanaranjan Das who is reading in Class -1 of Subalaya UGME School under Daspalla PS limits under Nayagarh District who fell in to the hot rice gruel which was kept after cooking of rice meant for Mid-day meal of said School.	The compensation amount of Rs. 20,000/- has already been paid to Smt. Jyotshna Rani Das, the mother of the victim student as per letter dated 18-12-2017 communicated vide the memo no 7144 to this commission by the District Education Officer, Nayagarh.



Sl No	Case No	Name of the Petitioner/ Suo-Motu	Date of Award	Amount	Cause of Violation	Compliance by Public Authority
3.	5414/2015	Shyamsundar Jena	19-05-2017	Rs. 5,00,000/-	The Commission recommends the financial assistance to the tune of Rs. 5, 00,000/- to Priyanka Priyadarsini Jena, the daughter of the petitioner who lost vision of her left eye being hit by a G.I. wire inside the hostel campus due to negligence and carelessness on the part of the authorities of the Jawahar Navodaya Vidyalaya, Chandimal in Bhadrak District.	The compensation amount has not yet been paid to the victim. Now a writ petition has been filed before the Hon'ble High Court of Odisha bearing W.P.(C) no 16405/2017 and further intimation of the Hon'ble Court is awaited.
4.	57/2017	Sri Prabir Kumar Das	13-07-2017	Rs. 25,000/-	The Commission recommends to the Union Govt. in the Ministry of Railways to compensate the Dibyanga namely Suresh Rao @ Lengada @ Chhota by paying Rs. 25,000/- as the railway personnel belonging to the railway protection force dragged him on platform no-4 of Balasore Railway Station and broke his crutch and assaulted him mercilessly in full public blaze.	The compensation amount could not be disbursed to the victim as his present whereabouts could not be traced out in the address given. A public proclamation has been issued in the news paper as intimated by the Sr. Divisional Security Commissioner, RPF & SE Railway Kharagpur.
5.	1418/2016	Nishikanta Mishra	24-08-2017	Rs. 4,50,000/-	The Commission recommends that the Company NESCO Utility to extend the financial assistance of Rs.3,00,000/- to the next of the kin of the victim boy and further requested the Principal Secretary to Govt. GA and P.G Department, Govt. of Odisha, Bhubaneswar to extend financial assistance to the tune of Rs.1,50,000/- to the next of kin of the victim Boy Bishnu Lohar.	The Compensation amount of Rs. 3,00,000/- has already been paid on 31-10-2017 in shape of cheque as intimated vide letter no 4026 dated 14-11-2017 of the Collector and Dist. Magistrate Mayurbhanj. Further, an intimation has been received from above authority that the sum of Rs. 1,50,000/- has been



Sl No	Case No	Name of the Petitioner/ Suo-Motu	Date of Award	Amount	Cause of Violation	Compliance by Public Authority
						paid to the next kin of the victim boy Sri Bishnu Lohar through Bankers cheque vide letter no. 2022, dated 18-08-2018.
6.	4708/2015 5571/2015 & 1937/2016	N.K Panda and Others	17.10.2017	Rs.2,50,000/-	Recommended the Govt. to pay compensation of Rs.2,50,000/- to the next of the kin of the deceased Anapa Marandi, the son of Mangat Marandi, a student of Class-VII of Angarpada Project UP School who got severe grievous injuries and declared dead by doctor on 15.10.2015 as the concrete display board built upon the boundary wall of the school collapsed and fell upon his head and other parts of the body while the said Apana Marandi had gone to attend the call of nature.	The compensation amount of Rs.2,00,000/- only towards ex-gratia money has been paid to the next of kin Smt. Tulasi Marandi, M/o of deceased Anapa Marandi and rest of Rs.50,000/- paid through the Tahasildar Kusumi of Mayurbhanj District from Chief Minister's Relief Fund as intimated by the Joint Secretary to Government, School & Mass Education Department, Government of Odisha, Bhubaneswar in their letter no. 17505 dtd.10.08.2018.
7.	4734/2017 4735/2017 4750/2017 4751/2017 5088/2017 5202/2017	Sri Biswapirya Kanungo & others	10.11.2017	Rs. 50,000/-	Recommended to the Commissioner-Cum-Secretary to Govt., ST & SC Development Department, Govt. of Odisha, Bhubaneswar to extend financial assistance of Rs. 50,000/- as an interim measure to the victim tribal student, aged about 14 years, who was going to Sorisapada Residential School on	As per letter No. 21372 / S S D Dtd.27.11.2017 of ST & SC Development Deptt., a sum of Rs.50,000/- has been kept in fixed deposit in favour of the victim girl in Andhra Bank Simuliguda Branch on 24.11.2017



Sl No	Case No	Name of the Petitioner/ Suo-Motu	Date of Award	Amount	Cause of Violation	Compliance by Public Authority
					10.10.2017 after obtaining her passport photo from a Photoshop of Kunduli hata pada	
8.	2337/2017	Akhanda	20.11.2017	Rs. 2,00,000/-	Recommends the State Government to extend further financial assistance to the tune of Rs. 2,00,000/- to the victim of Acid Attack Ms. Pramodini Roula, D/o- Late Ananta Roula of Village- Kanakpur Sasan under Tirtol PS limit in Jagatsinghpur District.	The Special Secretary to Government in Home Department intimates that as per the Odisha Victim Compensation Scheme, 2017, Rs.3,00,000/- has been paid to the victim of Acid Attack and before that Rs. 30,000/- was paid by the Collector & D.M, Jagatsinghpur to the victim from the C.M.'s Relief Fund and therefore in all Rs. 3,30,000/- which is more than the compensation amount has already been paid to the victim.
9.	3134/2017	Biswapriya Kanungo & Others	06.03.2018	Rs. 3,00,000/-	Recommends for Compensation of Rs.3,00,000/- to be paid to Smt. Heena Singh, widow of deceased Abhaya Kumar Singh due to death in Police Custody.	Sanction for Rs. 3,00,000/- (Rupees Three Lakh) only has been accorded for payment to Smt. Heena Singh, widow of the deceased Abhaya Singh vide sanction order No. 1757 dated 22.06.2018 of the State Police Headquarters, Cuttack.



Sl No	Case No	Name of the Petitioner/ Suo-Motu	Date of Award	Amount	Cause of Violation	Compliance by Public Authority
10.	4893/2016	Kenedi Pradhan & Utkal Mulia	27.03.2018	Rs. 2,00,000/-	Recommended for compensation of Rs. 1 Lakh each to be paid by the IIC Lalbagh PS namely Debadutta Barala and S.I Laxmidhar Majhi.	Two W.P.(C) Cases bearing Nos.9334/2018 and 9070/2018 have been preferred before the Hon'ble High Court of Orissa Cuttack by the Police Personnel and further intimation/order of the Hon'ble Court is awaited.



CHAPTER - 6

DETAILS OF SANCTIONED AMOUNT TOWARDS GRANTS / FINANCIAL ASSISTANCE TO NGOs / INSTITUTIONS FOR THE YEAR 2017-18

During the year 2017-18, Odisha Human Rights Commission, Bhubaneswar had taken different NGOs & Institutions by releasing the initiative of creating awareness about grants as mentioned below :

Sl. No.	Name of the Organisation / Institution	Amount released
1	Social Human Action for Rural Poor, At- Nizigarh, Po- Narasinghpur, Dist- Cuttack.	Rs. 30,000/-
2	Citizens' Forum for Human Rights, Bhubaneswar.	Rs. 30,000/-
3	Srima Aurovinda Seva Sanstha, Raitundi, Panasudha, Kendrapada	Rs. 22,500/-
5	Utkalika, Bidanasi, Nuasahi, Cuttack	Rs. 20,000/-
6	Collector & D.M., Balasore	Rs. 47,500/-
	Total	Rs. 1,50,000/-



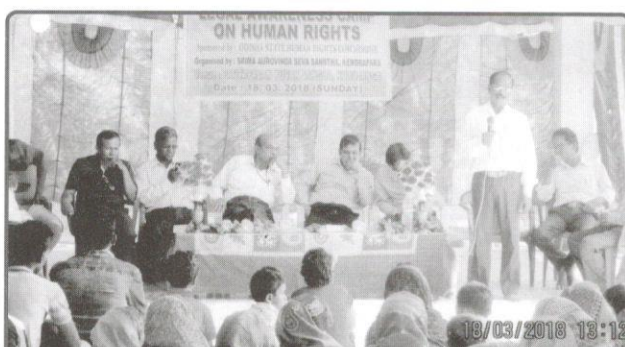
Hon'ble Acting Chairperson Shri Justice B.K Misra and other guests gracing the awareness Programme organised by Citizens' Forum for Human Rights, Bhubaneswar.



Cyclothon organised by Social Human Action for Rural Poor (SHARP), Cuttack on World Human Rights Day, 10.12.2017.



Human Rights workshop on "Exploitation of Women" organised by Utkalika, Bidanasi, Cuttack on 28.03.2018.



Legal Awareness Camp on Human Rights organised by Srima Aurovinda Seva Sanstha, Kendrapada on 18.03.2018.



SENSITISATION PROGRAMME ON ELIMINATION OF BONDED LABOUR SYSTEM HELD AT BALASORE ON 28.10.2017

Hearing the petition filed by Sri Baghambar Patnaik in OHRC Case No.3064/2014, Hon'ble Commission being assured by the Collector & District Magistrate, Balasore on 11.09.2017, passed an order to hold a sensitizing programme at Balasore on 28.10.2017 on elimination of Bonded Labour System in the state. Accordingly the Commission in collaboration with Department of Panchyat Raj and Department of Labour & ESI, Government of Odisha, held a workshop on Bonded Labour (Abolition) System Act, 1976 at DRDA Conference Hall, Balasore.

All arrangements were made by the ideal efforts of the Collector & District Magistrate, Balasore Sri P.K Das, IAS for the workshop. Dr. L.D Mishra, IAS (Retd.) Former Union Labour Secretary and Special Rapporteur, NHRC addressed the occasion as Chief Speaker with

his valuable and informative presentation on Bonded Labour issues. The workshop started with welcome address by Sri P.K Das, IAS, Collector & District Magistrate, Balasore followed by the inspiring deliberation of Hon'ble Acting Chairperson, OHRC Shri Justice B.K Misra. Among other speakers Sri Sachin Yadav, IAS, Labour Commissioner, Odisha, Sri Deo Ranjan Kumar Singh, IAS, Principal Secretary to Government in P.R Department also deliberated their views on the topic. Sri S.M. Narvane, IPS, Director Investigation introduced the Chief Speaker and Sri A.C Shial, IAS, Secretary offered vote of thanks.

Among the participants, prominent officials were IGP (ER), S.P., Balasore, all Sub-Collectors, ADMs, Tahasildars, BDOs, DSPs, IICs of Balasore district and District Labour Officer, Balasore.



Hon'ble Acting Chairperson Shri Justice B.K Misra lighting the candle.



Dr. L.D Mishra, IAS(Retd.) former Union Labour Secretary and Special Rapporteur NHRC lighting the candle.



Hon'ble Acting Chairperson Shri Justice B.K Misra, Dr. L.D Mishra, IAS (retd.), Sri S.M Narvane, IPS, Director Investigation-cum- Addl. D.G of Police, OHRC, Shri A.C Shial, IAS, Secretary, OHRC and other Dignitaries on the dais.



Police and Administrative Personnel participating in the sensitization programme.



CHAPTER - 7

COMMISSION OBSERVES WORLD HUMAN RIGHTS DAY ON 10.12.2017 AT MENTAL HEALTH INSTITUTE OF S.C.B MEDICAL COLLEGE & HOSPITAL, CUTTACK & ALSO AT SAHAYA

Instead of observing the World Human Rights Day in the traditional manner this year the Commission decided to reach out to such section of the society who require protection of their Human Rights as they suffer from various forms of deprivation.

Accordingly the World Human Rights Day was celebrated with the inmates and staff of Mental Health Institute of SCB Medical College & Hospital, Cuttack and students and staff of "SAHAYA" Cuttack, a NGO taking care of the health and education of mentally retarded children.

The team of Commission led by Hon'ble Acting Chairperson Shri Justice B.K Misra visited the Mental Health Institute of Medical College & Hospital at 9.30 AM on 10.12.2017 and distributed fruits to the indoor patients. Further one desktop computer with specification- 20" Monitor, Intel 7th Generation core i3 Processor with 4GB Ram, 1TB Hard Disk, Optical Drive- DVD writer (windows 10 operating system home edition , HDMI-external port) & one LED TV with specification -Haier-55" (B9500U) Ultra High Definition Mobile, High definition Link, HDMIX- Audio Out Put power-2 X10W were donated to "SAHAYA".

The above two equipments are very useful teaching aids for the disabled students of the "SAHAYA". Food packets were also distributed to the students of SAHAYA by the Commission.

Shri Justice B.K. Misra, the Hon'ble Acting Chairperson, OHRC graced the function organised in the Mental Health Institute of S.C.B Medical College & Hospital, Cuttack and

also at "SAHAYA", Blood Bank Campus, Mangalbag, Cuttack in the presence of :

1. Sri Niranjan Rath, Editor & Publisher, "The Samaj".
2. Prof. (Dr.) Sidhartha Das, Dean & Principal ,S.C.B Medical College & Hospital, Cuttack
3. Prof.(Dr.) Nilamadhaba Rath, HOD, Mental Health Institute, SCB MC & H, Cuttack.
4. Sri. Ananda Chandra Shial, IAS, Secretary, Odisha Human Rights Commission, BBSR.
5. Sri Susanta Kumar Mohapatra, IAS, Collector & D.M, Cuttack.
6. Sri Raghuram R. Iyer, OAS , A.D.M, Cuttack.
7. Prof.(Dr.) Shyama Kanungo, Superintendent of S.C.B, Medical College & Hospital, Cuttack.
8. Secretary, SAHAYA
9. Ms. J.M Pradhan, OAS (SB), Deputy Secretary, Odisha Human Rights Commission, BBSR.
10. Sri A.K Biswal, OPS (SB), Addl. S.P., Odisha Human Rights Commission, BBSR.
11. Sri K.C Patsani, OPS, Dy.S.P, Odisha Human Rights Commission, BBSR.
12. Sri B. Satapathy, OPS, Dy. S.P., Odisha Human Rights Commission, BBSR.
13. Dr. S.K. Nisanka, Accounts Officer, Odisha Human Rights Commission, BBSR.
14. Smt. Tuna Behera, D.S.W.O., Cuttack & other staff of the Commission.



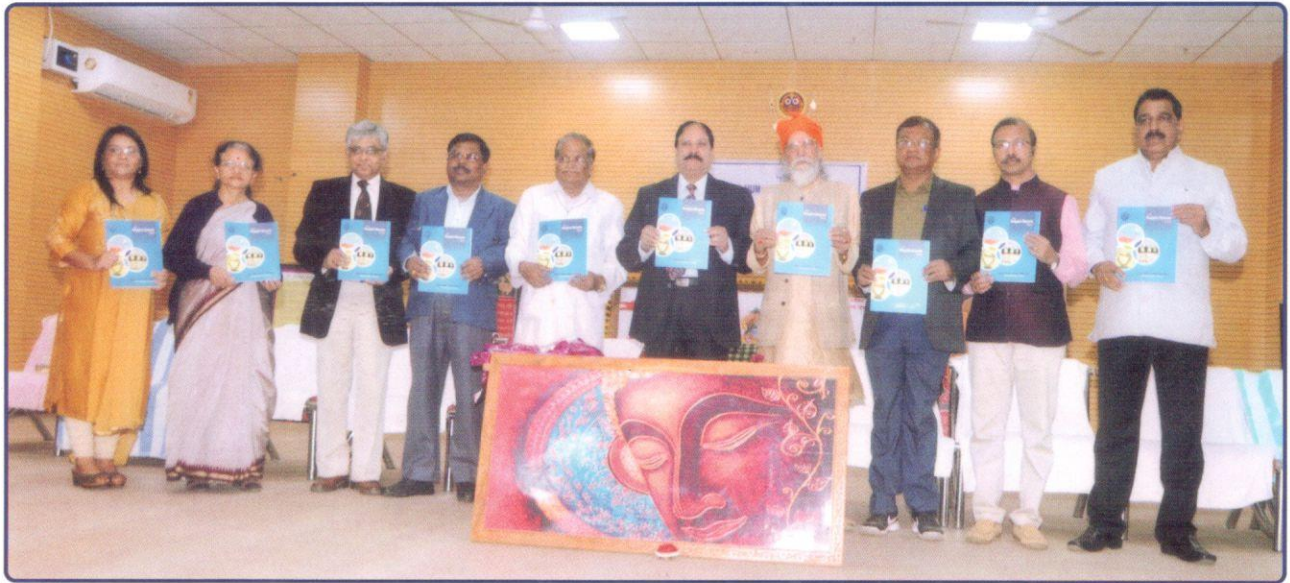
OBSERVATION OF WORLD HUMAN RIGHTS DAY ON 10.12.2017 AT PSYCHIATRIC WARD OF SCB MEDICAL COLLEGE & HOSPITAL, CUTTACK AND "SAHAYA", AN INSTITUTE FOR EDUCATION OF CHILDREN WITH DISABILITIES.



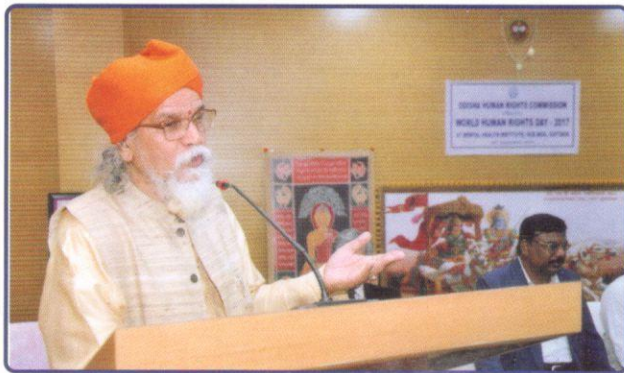
Hon'ble Acting Chairperson of the Commission distributing fruits to the indoor patients of Psychiatric ward of SCB Medical College & Hospital, Cuttack on World Human Rights Day, 10.12.2017.



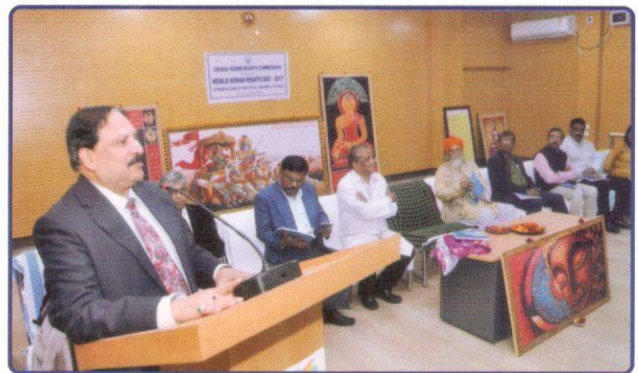
Hon'ble Acting Chairperson, Director Mental Health & other dignitaries in a formal meeting at Institute of Mental Health, SCB Medical College and Hospital, Cuttack.



Release of Annual Magazine "The People's Beacon" at Institute of Mental Health, SCB Medical College and Hospital, Cuttack.



Director of "The Samaj", Cuttack addressing the meeting



Hon'ble Acting Chairperson addressing the meeting at Mental Health Institute SCB Medical College & Hospital, Cuttack.



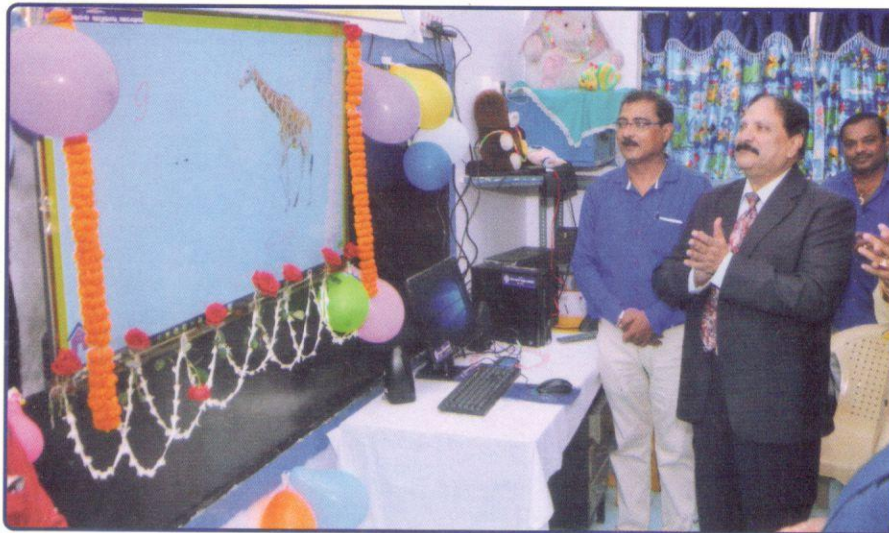
Collector, Cuttack addressing the meeting at Mental Health Institute SCB Medical College & Hospital, Cuttack.



Hon'ble Acting Chairperson being felicitated by Hospital Authorities at Mental Health Institute, SCB Medical College & Hospital, Cuttack



Hon'ble Acting Chairperson interacting with the differently abled children and their parents at "SAHAYA".



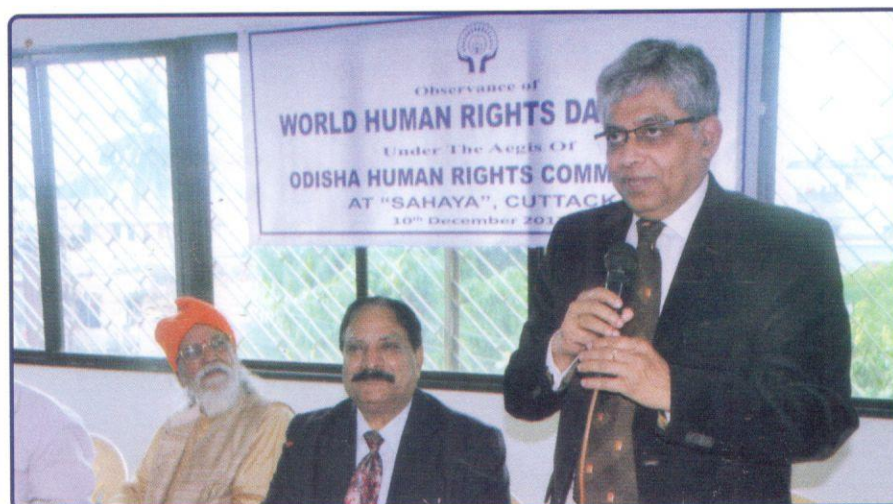
Inauguration of the Audio Visual System (Computer + LED TV) at "SAHAYA" Mangalabag, Cuttack donated by OHRC.



Students of "SAHAYA" performing cultural programme.



Hon'ble Acting Chairperson speaking in the meeting at "SAHAYA".



Prof. Dr. Siddhartha Das, Dean & Principal, SCB Medical College & Hospital, Cuttack speaking in the meeting at SAHAYA.



Prof. Dr. Neela Madhab Rath, Director, Institute of Mental Health, SCB Medical College & Hospital, Cuttack speaking to the students, parents and staff of SAHAYA.



Hon'ble Acting Chairperson distributing food packets to the students of SAHAYA



CHAPTER - 8

BUDGET & FINANCE OF THE ODISHA HUMAN RIGHTS COMMISSION DURING 2017-18

- (i) (a) Government of Odisha provided a sum of Rs.3,04,22,000/- 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 expenditures of Odisha Human Rights Commission for the Financial Year 2017-18.
- (b) Government of Odisha provided a sum of Rs. 30, 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 expenditures of Odisha Human Rights Commission for the Financial Year 2017-18.
- (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. 2,70,56,474/- was made which was 89% of the Budgetary provision of the year 2017-18. As a result the amount surrendered was Rs. 33,65,526/- during the said year attributed to various reasons.
- (b) The total Budget provision under State Plan was Rs. 30, 00,000/- and the expenditure incurred was of Rs. 25,89,296/-. As such, surrender to the tune of Rs. 4,10,704/- was made to Government during the year 2017-18.
- (iii) Unit wise provisions made in the State Budget, amount augmented by way of re-appropriation, the expenditures made and amount surrendered for the Financial Year 2017-18 under Non-Plan and State Plan are indicated in the statements at Annexure V & VI respectively.





CHAPTER - 9

RIGHT TO INFORMATION ACT, 2005

Sri Bimalendu Satapathy, OPS, Deputy Superintendent of Police is working as Public Information Officer and Sri Asisa Kumar Majhi, Section Officer is working as Asst. Public Information Officer of this Commission to take care of the applications received from the public and to furnish the requisite

information to them under the Right to Information Act, 2005. Sri Ananda Chandra Shial, IAS, Secretary is working as the Appellate Authority of this Commission in this regard.

The details of applications and appeals received under the Act during the year 2017-18 are indicated below:

Details of RTI Applications

2017-18

1	No. of Applications Received	75
2	No. of Applications disposed of within 30 days	32
3	No. of Applications pending but disposed of beyond one month	34
4	No. of Applications pending but are within one month	08
5	No. of Applications transferred to other Departments/Organisation	01

Details of 1st Appeal

1	No. of Appeals received by the Appellate Authority	12
2	No. of such Appeals disposed of within one month	12
3	No. of Appeals pending	Nil

Details of 2nd Appeal with S.I.C

1	No. of notices received from S.I.C	04
2	No. of hearing attended by PIO / Appellate Authority	04
3	No. of hearing in respect of which compliance submitted to SIC	04
4	No. of hearing in respect of which compliance not submitted to SIC	Nil





ANNEXURE- I

Occupancy Position of OHRC during the year 2017-18

Sl.No	Post/Designation	Sanctioned	In Position	Vacancy
1	Chairperson	1	-	1
2	Member	2	1	1
3	Secretary	1	1	-
4	Director Investigation	1	1	-
5	Registrar	1	-	1
6	Joint Secretary	2	1	1
7	Addl. Supdt. of Police	1	1	-
8	Under Secretary	1	-	1
9	Deputy Registrar	1	-	1
10	Assistant Registrar	1	-	1
11	Deputy Supdt. of Police	3	3	-
12	Court Master	1	-	1
13	Accounts Officer	1	1	-
14	Private Secretary	2	-	2
15	Inspector of police	4	3	1
16	Section Officer	2	2	-
17	Personal Assistant	6	2	4
18	Senior Assistant	2	1	1
19	Assistant Section Officer	5	5	-
20	Accountant Cum-Cashier	1	1	-
21	Senior Stenographer	2	1	1
22	Junior Stenographer	3	-	3
23	Computer Operator	1	-	1
24	Junior Assistant	2	-	2
25	Despatcher-Cum-Typist	2	1	1
26	Constable	8	6	2
27	Driver	4	4	-
28	Peon/Class-IV	8	7	1
	Total	69	42	27




ANNEXURE-II
Subject-wise classification of cases registered & disposed of during the year 2017-18

Sl.No.	Classification of cases	No. of cases
1	Children	8
2	Health	20
3	Jail	-
4	Anti Social Activities	-
5	Labour	754
6	Minorities ST/SC	44
7	Physically Handicapped	-
8	Police, Paramilitary Force	1827
9	Pollution	18
10	Religion / Community	15
11	Service Matter	280
12	Women	1495
13	Miscellaneous	1045
	Total No of cases received during the year	5506
	Total Number of cases dismissed in limine	2196
	Total number of cases taken up for hearing	3310
	Total number of cases pending from previous year	14423
	Total number of cases pending for disposal during the year	17733
	Total number of cases disposed of on hearing	2280
	Total No. of cases pending at the end of the year	15453





ANNEXURE-III

Classification of cases taken up Suo-motu during the year 2017-18

Sl.No.	Classification of cases	No. of cases
1	Children	-
2	Health	-
3	Jail	-
4	Anti Social Activities	-
5	Labour	-
6	Minorities ST/SC	-
7	Physically Handicapped	-
8	Police, paramilitary force	-
9	Pollution	-
10	Religion / Community	-
11	Service Matter	-
12	Women	-
13	Miscellaneous	-
	Total No. of cases disposed of	-
	Total No. of cases pending from the previous year 2016-17	49

ANNEXURE-IV

Subject-wise classification of cases disposed of during the year 2017-18

Sl.No.	Classification of cases	No. of cases
1	Children	13
2	Health	52
3	Jail	-
4	Anti Social Activities	-
5	Labour	113
6	Minorities ST/SC	-
7	Physically Handicapped	13
8	Police, Paramilitary Force	740
9	Pollution	15
10	Religion / Community	2
11	Service Matter	126
12	Women	1049
13	Miscellaneous	157
	Total	2280



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 2017-18**

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

MAJOR HEAD	MAJOR HEAD	C.NO	DETAILED DESCRIPTION	B.E. FOR 2017-18	SUPPLEMENTARY/ -RE-APPROPRIATION FOR 2017-18	TOTAL PROVISION FOR 2017-18	DETAILS OF SURRENDER FOR THE YEAR 2017-18	TOTAL EXPENDITURE FOR THE YEAR 2017-18	Reasons for surrender
855	1348	01003	ARREAR PAY	825000	(+)1200000(S)	2025000	323688	1701312	
136	1348	01003	PAY	9825000	(+)2700000(S)	12525000	176613	12348387	
156	1348	01003	DA	11250000	(-)3900000(R)	7350000	900056	6449944	
403	1348	01003	HRA	1125000	0	1125000	326009	798991	
516	1348	01003	RCM	300000	0	300000	5141	294859	
523	1348	01003	OA	1060000	0	1060000	207184	852816	
0	1348	01004	SALARIES FOR CONSOLIDATED PAY POSTS	1750000	0	1750000	74060	1675940	Due to non filling up of some posts and transfer of staff
0	1348	06001	TE	500000		500000	55259	444741	
0	1348	07001	LTC	450000		450000	5611	444389	
74	1348	08001	ELECTRICITY DUES	780000		780000	232882	547118	Due to fixing up of LED lights in office
149	1348	08001	WATER CHARGES	1000		1000	1000	0	
154	1348	08001	TEL. CHARGES	250000		250000	20695	229305	
397	1348	08001	MOTOR VEHICLE	1100000		1100000	235113	864887	
506	1348	08001	OTHER CONTINGENCIES	1300000	(-)160000(R)	1140000	89482	1050518	
0	1348	30001	PIURCHASE OF MOTOR VEHICLE	1000000		1000000	1000000	0	Condemnation proposal of old vehicle is under process at Govt level

Cont.....



MAJOR HEAD	SUB-MAJOR HEAD	C.NO	DETAILED DESCRIPTION	B.E. FOR 2017-18	SUPPLEMENTARY/-RE-APPROPRIATION FOR 2017-18	TOTAL PROVISION FOR 2017-18	DETAILS OF SURRENDER FOR THE YEAR 2017-18	TOTAL EXPENDITURE FOR THE YEAR 2017-18	Reasons for surrender
0	1348	78118	UP-GRADATION OF COMPUTER FACILITY	50000	(+)170000(S)	220000	0	220000	
0	1348	78012	COMPUTER CONSUMABLES	80000	(-)10000(R)	70000	2950	67050	
0	1348	33011	SPARES & SERVICES	80000		80000	821	79179	
0	1348	12001	CONSULTING CHARGES	20000		20000	12000	8000	
0	1348	12006	PAYMENT FOR PROFESSIONAL & SPECIAL SERVICES	550000		550000	19650	530350	Due to non receipt of legal bills
0	1348	20002	OTHER CHARGES	1000		1000	1000	0	
918	1348	41048	GRANT IN AID GENERAL (NON-SALARY)	150000		150000	0	150000	
			TOTAL	31622000		30422000	3365526	27056474	
2052-0808-LAW DEPTT.			FESTIVAL ADVANCE	165000		165000	15000	150000	



ANNEXURE-VI

**SURRENDER STATEMENT OF ODISHA HUMAN RIGHTS COMMISSION UNDER DEMAND NO.4-2014-
ADMINISTRATION OF JUSTICE-STATE PLAN-STATE SECTOR-103-SPECIAL COURT-1348-FOR THE YEAR 2017-18**

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

MAJOR HEAD	SUB-MAJOR HEAD	C.NO	DETAILED DESCRIPTION	B.E. FOR 2017-18	SUPPLEMENTARY/ -RE-APPROPRIATION FOR 2017-18	TOTAL PROVISION FOR 2017-18	DETAILS OF SURRENDER FOR THE YEAR 2017-18	TOTAL EXPENDITURE FOR THE YEAR 2017-18	Reasons for surrender
506	1348	08001	OTHER CONTINGENCIES	3000000	-	3000000	410704	2589296	
			TOTAL	3000000		3000000	410704	2589296	




ଓଡିଶା ମାନବ ଅଧିକାର ଆୟୋଗ
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