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Case No. 868/25/13/2010-AF
NATIONAL HUMAN RIGHTS OMISSION
(LAW DIVISION)
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FARIDKOT HOUSE
COPERNICUS MARG, NEW DELHI - 110 001

17 OCT 2012

Dated 12/10/2012

To

THE SECRETARY
MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA, NORTH
BLOCK, NEW DELHI

Sub : Complaint from

SUHAS CHAKMA, DIRECTOR
ASIAN CENTRE FOR HUMAN RIGHTS, C-3/441-C,
JANAKPURI,
WEST DELHI DELHI. 110058

Sir/Madam,

I am directed to say that the matter was considered by the Commission on 08/10/2012 and the Commission has directed as follows.

These proceedings are in continuation of the earlier proceedings of the Commission. After having found, prima facie, that Shri Hannan Mondal was physically assaulted by the BSF personnel on 31.05.2010 in the area of Police Station Jalangi, the Commission ordered issuance of a show cause notice to the Government of India, through the Secretary, Ministry of Home Affairs.

The show cause notice has been responded to by Shri Yadvendra Singh, DIG (Ops) C, vide his report dated 25.04.2012. He has taken the same defence as in his earlier report dated 28.12.2010 and has prayed that "award of monetary relief to Shri Hannan Mondal may be denied till finalization of the case pending with the Police Station-Jalangi".

The Commission has carefully considered the response to the show cause notice. Shri Honnan Mondal did lodge a report with the Police Station Jalangi on 31.05.2010 that BSF personnel of Singhpara BOP had used filthy language against him as he had protested against a quarrel between BSF personnel and one Mashedul Mondal. This information was recorded in the GDE No. 2088 as a non-cognizable offence. ASI B.T. Paul approached the Court of the CJM, Berhampora, Murshidabad, for necessary permission to cause inquiry U/S 155 (2) Cr.P.C. He also reportedly sent a prayer to the Company Commander of the Singhpara BOP to supply the particulars of the on-duty BSF personnel at OP No. 2 on 31.05.2010. However, he did not receive any response. The DIG denies having received such a request. However, in the facts and circumstances of the case, the police version cannot be disbelieved.

The DIG has also raised a question on the injuries sustained by the victim, because the same are not mentioned in the GDE. This suspicion is not justified in view of the injury reports of Shri Honnan Mondal which is dated 31.05.2010. This was also sent by the Medical Officer to the Officer Incharge of Jalangi Police Station. The following injuries were noted in the injury report :

- (i) Pain, tenderness, swelling and lacerated wound of the lower lip.
- (ii) Pain and tenderness, bruise over upper portion of left arm, right shoulder.
- (iii) Pain and tenderness of right temporal region, anterior chest, under surface of chin.

same cannot be accepted. Having found prima facie violation of a human right, the Commission is competent to grant relief U/S 18 (a) (i) of the Protection of Human Rights Act, 1993, irrespective of pendency of any criminal case.

Hence, keeping in view the facts and circumstances of the case, the Commission recommends to the Government of India, through the Secretary, Ministry of Home Affairs, to pay compensation Rs.25,000/- (Rupees Twenty Five Thousand only). to the victim. The Secretary is directed to submit compliance report alongwith proof of payment within six weeks.

It is therefore, requested that the compliance report in the matter be sent to the Commission latest by 30/11/2012, so that the same could be placed before the Commission.

Yours faithfully,


ASSISTANT REGISTRAR (LAW)

CC To,

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SUHAS CHAKMA, DIRECTOR
ASIAN CENTRE FOR HUMAN RIGHTS, C-3/441-C,
JANAKPURI,
WEST DELHI, DELHI.
(Pin Code-110058)