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Case No. 494/18/1/07-08-JCD / MFC
NATIONAL HUMAN RIGHTS COMMISSION
(LAW DIVISION)

FARIDKOT HOUSE
COPERNICUS MARG, NEW DELHI - 110 001

SPEED POST

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Dated 15/01/2009

To
THE CHIEF SECRETARY
GOVT. OF ORISSA, BHUBANESWAR

Sub : Complaint from
SUPDT. OF DISTRICT JAIL,
BALASORE ORISSA.

Sir/Madam,

I am directed to say that the matter was considered by the Commission on 12/10/2008 and the Commission has directed as follows.

The Commission received an intimation from Superintendent, District Jail, Balasore, Orissa regarding the death of an Under Trial Prisoner Takala @ Muktikanta Muduli. The prisoner was admitted in the jail on 27.8.2007. On 29.8.007 at about 5.15 A.M., he was taken to District Headquarters Hospital and there he was declared dead.

A complaint was also received from Shri Suhas Chakma in which it was alleged that Takala had died as a result of torture by jail officials.

A joint enquiry into the circumstances of death was conducted by SDM and Addl. S.P., Balasore. The enquiry revealed that the deceased was indulging in unruly behaviour due to alcohol withdrawal. The other inmates made a complaint to Warder Sarbeshwar Das who was on duty in the cell. The Warder tied the hands of the prisoner to the iron grill with a lungi at about 00.30 A.M. and kept him in standing position. The hands were tied from outside and the prisoner was made to stand inside the cell. He kept standing in that position for more than three hours. At about 3.30 A.M., the Warder on duty observed that the prisoner was motionless. Immediately thereafter the Medical Officer of the Jail was called. He found that the pulse was not recordable. At about 4.30 A.M., the prisoner was sent to District Headquarters Hospital and there he was declared dead at 5.15 A.M. The SDM concluded that the fatigue, pain and broken health due to drunkenness had led to the collapse of the prisoner.

On consideration of the joint enquiry report, the Commission found prima facie that there was an infraction of the Right to Life and consequently, a show cause notice u/s 18 of the Protection of Protection of Human Rights Act, 1993 was issued to the Govt. of Orissa.

Inspector General (Prisons), Orissa has responded to the show cause notice vide communication dated 7th February, 2008. It has been contended that the Warder who had tied the hands of the prisoner to the grill had acted in good faith and without malice. His act was not in nocuous and unintentional and his purpose was to bring the unruly prisoner under control. It has been further pleaded that imposition of penalty in the circumstance of the case will have a demoralizing effect on the custodial staff of the jail.

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The Commission finds no merit in the plea taken by the State Government. If the prisoner was showing withdrawal symptoms and causing nuisance and discomfort to the other prisoners, there could have been better and civilized ways to control him. The doctor could have been called and he could have been given a sedative. It was utterly inhumane to tie his hands behind him and to keep him standing for more than three hours. As would be seen from the report of IG (Prisons) to the Principal Secretary, the probable cause of death was massive heart attack. The post mortem report shows patches on lungs. It is quite probable that the fatigue and pain caused by standing for more than three hours with hands tied on the back triggered the heart attack in that state of health. The State cannot, therefore, escape its liability for the death of the prisoner. Under these circumstances, the Commission has no hesitation in recommending to the State Government to pay a sum of Rs. One lakh as monetary relief to the next of kin of deceased Takala @ Muktikanta Muduli. Chief Secretary, Government of Orissa shall submit compliance report alongwith proof of payment within eight weeks.

It is therefore, requested that the compliance report in the matter be sent to the Commission latest by 09/03/2009, so that the same could be placed before the Commission.

Yours faithfully,

ASSISTANT REGISTRAR (LAW)

CC To.

SUPDT. OF DISTRICT JAIL,

BALASORE, ORISSA.

ISSUED
Prashant
12/01/09