



ASIAN CENTRE FOR HUMAN RIGHTS

Dedicated to promotion and protection of human rights in Asia

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Subject: Request for urgent intervention with the National Human Rights
Commission of India to re-open and re-hear the Case No. 24/14/2/08-09-PF
pertaining to the torture of Mr Brajabasimayum Robin Sharma and others by
the Assam Rifles personnel in Manipur State of India

Dear Sir/Madam,

The Asian Centre for Human Rights (ACHR) is writing this letter to seek interventions of all the recipients of this letter against arbitrary closure of its complaint (Case No. 24/14/2/08-09-PF) by the National Human Rights Commission of India on 3 June 2009 pertaining to the torture of Mr Brajabasimayum Robin Sharma, Mr R.K Dhanjit Singh and others by the Assam Rifles personnel in Manipur on 14 September 2008. The Manipur Police in their report submitted to the NHRC stated that they were subjected to "beating" by the Assam Rifles personnel. The ACHR further submitted the press clipping and photographic evidence of torture to the NHRC. Despite

providing such unflinching evidence which corroborates the Manipur Police report, the NHRC dismissed the complaint on the frivolous and illegal ground that *“The complainant (ACHR) has also not submitted the copy of injury report of B. Robin Sharma and R.K Dhanjit Singh”*.

It is our sincere hope that you will intervene with the National Human Rights Commission of India.

1. Brief facts of the case and dismissal by the NHRC

On 1 October 2008, the ACHR filed the above complaint (Annexure – I) alleging that over 20 passengers traveling in a bus were detained and tortured by the Assam Rifles personnel at the Assam Rifles Post, Tengnoupal under Sector 9 in Moreh district of Manipur on 14 September 2008. The complaint is available at:

http://www.achrweb.org/urgent_action/Dhanajit-Robin-Oct2008.pdf

On 16 October 2008, the NHRC directed the Senior Superintendent of Police, Moreh, Manipur and the Secretary, Ministry of Home Affairs, Government of India to submit reports within eight weeks.

On 19 January 2009, the NHRC forwarded the gist of the report (Annex –II) submitted by Inspector General of Police (Human Rights), Manipur wherein it was stated that *“the passengers were detained at the Assam Rifles Post at Tengnoupal on 14-9-2008 and Mr B. Robin Sharma and R.K. Dhanajit Singh received minor physical injuries due to beating by the Assam Rifles personnel”*(*Emphasis Ours*). In the same letter, the NHRC also directed ACHR to “send the copy of the report submitted by the injured before the police station, if any, and copy of the injury report of Mr B Robin Sharma and R K Dhanajit Singh”. The letter from the NHRC is available at:

http://www.achrweb.org/urgent_action/Dhanajit-Robin-ManipurPoliceReport.pdf

On 18 February 2009, ACHR provided its comments (Annex-III) to the report of the police to the NHRC. ACHR also provided (i) affidavit of the victim, Mr B Robin Sharma, among others, stating as to why they could not file the FIR, (ii) photographs of Mr Sharma and Mr R K Dhanajit Singh showing torture marks, and (iii) press clipping relating to the incident showing torture mark of the victim. The comments of ACHR submitted to the NHRC are available at:

http://www.achrweb.org/urgent_action/Dhanajit-Robin-ACHR'sComments.pdf

On 3 June 2009, the NHRC dismissed the complaint on the following grounds:

“Pursuant to the directions of the Commission, complainant on 18-2-2009 submitted the photographs which reveal mark of injury over the body of the victims who were brutally assaulted by the personnel of

Assam Rifles. He has also enclosed the affidavit of B.R Sharma in which he has submitted that the personnel of Assam Rifles tortured them on the ground of non-production of I-card. But the complainant has failed to submit the copy of report submitted by injured before police station. The complainant has also not submitted the copy of injury report of B. Robin Sharma and R.K Dhanjit Singh.

On the basis of the above, since the complainant has failed to produce the above mentioned documents, the allegation leveled against the personnel of Assam Rifles could not be substantiated during enquiry, further intervention of the Commission is not called for. The Case is closed.”

The order of the NHRC is appended as Annexure – IV and available at:

http://www.achrweb.org/urgent_action/Dhanajit-Robin-NHRC-Order-3June09.pdf

II. ACHR’s Appeal to the NHRC

On 28 July 2009, Asian Centre for Human Rights submitted its appeal (Annexure –V and available at http://www.achrweb.org/urgent_action/Dhanajit-Robin-RequestforReopening.pdf) to Justice Mr G P Mathur, Acting Chairperson of the NHRC to re-open and re-hear the complaint on the following grounds:

First, it is not ACHR’s responsibility to submit copy of the report of the injured to the Manipur Police. Nor could it be a ground for dismissal of the complaint. The Investigating Officer Inspector A. Tomba Singh, who is also the Officer-in-Charge of Tengnoupal Police Station recorded the statements of some of the passengers namely, Mr Brajabasimayum Robin Sharma, Mr R.K. Dhanajit Singh, Ms Chongtham Ningol RK, Mr Mod. Farooque Khan, Mr Yunan Gunadhar Singh and Mr RK Gyanendro Singh. In his report, the Investigation Officer stated that *“the passengers were detained at the Assam Rifles Post at Tengnoupal on 14-9-2008 and **Mr B. Robin Sharma and R.K. Dhanajit Singh received minor physical injuries due to beating by the Assam Rifles personnel**”*(Emphasis ours).

If NHRC had any doubt about the report submitted by the Manipur Police, it should have sought necessary clarifications from the police authorities.

Second, on 18 February 2009 while responding to NHRC’s request for comments, ACHR had submitted photographs of one of the victims, Brajabasimayum Robin Sharma showing marks of torture on the back, hand and legs. The photographs match with the findings of the Investigating Officer Inspector A Tomba Singh that the victims had been tortured.

Third, Mr Brajabasimayum Robin Sharma stated in his Affidavit before the Oath Commissioner at Imphal, Manipur that he and another victim RK Dhanajit went to lodge an FIR (on the next day of torture incident) at Porompat Police Station but the police officials refused to register their FIR. They were told to go to Tengnoupal Police Station. However, as the victims felt insecure to go the Tengnoupal Police Station, they could not register the FIR. In its submission of 18 February 2009 ACHR had provided copy of the affidavit of the Mr Brajabasimayum Robin Sharma to the NHRC. But curiously, the Commission did not take any cognizance of it and dismissed the complaint on the ground that “ACHR had failed to submit the report submitted by the injured before the police station”.

Fourth, assuming without admitting that ACHR and the police failed to substantiate torture of every body, the torture of Brajabasimayum Robin Sharma and Mr R.K Dhanjit Singh is established beyond any reasonable doubt with photographic evidence. The NHRC has failed to make this distinction while giving its order dated 3 June 2009.

The ACHR has been constrained to write this letter to seek your interventions with the NHRC of India given its failure to address similar requests in a number of cases earlier. The ACHR has been forced to approach the Honourable Delhi High Court to seek remedies.

Should you require any further information or clarifications, please do let us know.

With kind regards,

Yours sincerely,

Suhas Chakma
Director