

**ODISHA HUMAN RIGHTS COMMISSION
TOSHALI BHWAN (2ND FLOOR),
SATYA NAGAR, BHUBANESWAR-751007

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

Prabir Kumar Das

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... Petitioner

ORDER

25th February, 2016

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

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

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

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Education Officer, Ganjam addressed to the District Collector & Magistrate, Ganjam, Chatrapur very specifically shows that Alok Patra, a student of Class-I of Belapada Primary School under Beguniapada Block died because of drowning on 21.01.2015 during school hour in a pond for which the concerned class teacher Smt. Sanjukta Rath, Asst. Teacher has been placed under suspension. So also explanations have been called for from the Headmaster and other teachers of the school for their negligence.

Admittedly, the dead body of the deceased boy was found floating in the waters of a pond and Belapada Primary School situate on the embankment of the pond. The District Education Officer, Ganjam also has recommended to the District Project Coordinator, Sarva Sikhya Abhiyan, Ganjam, Chatrapur to make provisions for construction of boundary wall around the said school to avoid such unfortunate incident in future. The suspension order of Smt. Sanjukta Rath, Asst. Teacher, Belapada Primary School reveals that she was placed under suspension for her negligence in duty and the Headmaster of the school as well as the teachers of the school have also been called upon to furnish their explanations for their negligence.

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

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

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

In the instant case a boy of a very tender age, a student of Class-I of a school lost his life during school hour and that to after taking his mid-day meal, by drowning in a pond, which is adjacent to the school campus. The consistent report of the Collector, Ganjam and the District Education Officer, Ganjam reveals that due to negligence of the class teacher, Headmaster and other teachers of the school in taking care of the children reading in the school, such an unfortunate incident could happen.

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

government or even the courts of law. (Ramdeo Chouhan Vrs. Bani Kant Das, AIR 2011 SC 615).

Thus, taking into consideration the fact that a poor Scheduled Caste student of Class-I died because of drowning in an unguarded and unprotected pond which situate in the premises of the school and when such drowning took place because of the negligence and carelessness of the school authorities and when the State also has failed to discharge its duties in looking to the safety of the students, the Commission recommends to the Government in School & Mass Education Department for payment of monetary compensation to the tune of Rs.2,00,000/- (Rupees two lakhs) to the parents of the deceased boy Alok Patra under Section 18(a)(i) of the Protection of Human Rights Act, 1993 within two months from the date of receipt of this order.

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

**JUSTICE B. K. MISRA
ACTING CHAIRPERSON**

25th February, 2016