

**ODISHA HUMAN RIGHTS COMMISSION
TOSHALI BHAWAN (2ND FLOOR),
SATYA NAGAR, BHUBANESWAR-7**

O.H.R.C. CASE NO.340 OF 2013

**Advocate Biswapriya Kanungo & Pramodini Pradhan,
Convener, People's Union for Civil Liberties -**

... Petitioners

ORDER

6th February, 2014

The petitioner Mr. Biswapriya Kanungo, Advocate and Human Rights Activist is present. The case record is put up today as it inadvertently could not be placed on 6-9-2013. The Office is warned.

Heard Mr. Kanungo and perused the papers on record. Sri Kanungo in his petition alleges that neither Police nor the District Administration has provided any financial assistance to the two poor innocent tribals of village Khaliapada under Komna Block of Nuapada district, who sustained serious bullet injuries because of the firing by CRPF Jawan on 8-1-2013.

The SP, Nuapada in his parawise comments dated 5-7-2013 at para-4 states that financial assistance of Rs.10,000/- has been given to the two injured persons, namely Hube Majhi and Hari Majhi from the District Red Cross Society, Nuapada and Rs.7500/- has also been given from the District Police Welfare Fund for the better treatment of the injured persons. It is also reported that appropriate authorities have been moved for rendering more financial assistance to the injured persons as both the innocent tribals sustained injuries because of the Maoist firing.

Mr. Kanungo in his petition states that the two injured tribals are extremely poverty stricken to bear the medical expenses and they find it difficult to meet both the ends. Accordingly, he urged upon the Commission to provide adequate compensation to the family of Hube Majhi and Hari Majhi. It

is also prayed that necessary recommendations also be made to prosecute the CRPF personnel for such indiscriminate firing.

The SP, Nuapada was called upon by the Commission to furnish a factual report on the allegation of the petitioner. In his report dated 8-3-2013, the SP, Nuapada reported that Hube Majhi and Hari Majhi were injured by Maoist firing on 8-1-2013 as they resorted to firing on seeing the Police party, who were deployed to carry out combing operation in the area. There was exchange of fire between the Maoist ultras, for which the ultras escaped from the area through Mendhatal dense forest.

The report of the DSP (Hdqrs), Nuapada dated 7-3-2013 reveals that over the incident Komana PS case No.4/2013 under Sections 307, 120(B) of the IPC as well as under Sections 25 and 27 Arms Act and under Section 17 of the CrL. Law Amendment Act has been registered. During investigation of the said case, the IO recovered five numbers of empty .303 rifle cartridges and other incriminatory materials left by the ultras.

Such copy of the reports of SP, Nuapada and DSP (Hdqrs), Nuapada were made available to the petitioner for his response. In their response dated 16-5-2013, the petitioner made a scathing attack on the veracity of the reports as the Officers concerned did not examine any of the injured or witnesses. It was also emphasised that there has been no attempt to verify if the wounds found on the injured Hube Majhi and Hari Majhi could have been caused by .303 rifle bullets and if any of the bullet recovered from the wound of the injured were .303 bullets and sent for forensic examination and report.

A copy of the response of the petitioner was furnished to the SP, Nuapada for his comments. The SP, Nuapada has furnished a detailed parawise comments on the response of the petitioner and also has sent the photocopy of the statements of the injured Hube Majhi and Hari Majhi.

I have perused such statements of the injured persons.

Perused the discharge certificate in respect of the injured Hari Majhi and also the treatment papers of District Headquarters Hospital, Nuapada and also the discharge certificate in respect of the said Hube Majhi granted by the VSS Medical College & Hospital, Burla and the letter of the ADMO (Medical),

Nuapada describing the injuries which were detected on the person of Hube Majhi, son of Demu Majhi and Hari Majhi, son of Chaitanya Majhi, who were admitted into District Headquarters Hospital, Nuapada. The report discloses that Hari Majhi had no bony injury on his injured leg, but he was admitted to the Surgical Ward. But Hube Majhi had one lacerated injury 12" x 4" on right arm and extensor aspect of right elbow. X-ray photo reveals right tibial-tubersity of humerous lateral epicardly of right radical hand. It is also reported that since the patient was in a critical stage after stitching the wound and applying pressure bandage to all the bleeding sites, he was referred to the VSS Medical College & Hospital, Burla, where he was operated. Nailing and plating of the injury sites were done at VSS Medical College & Hospital, Burla and he was discharged with further advice of dressing of wound on alternative days. Since there was infection of the wound, he was again referred to VSS Medical College & Hospital, Burla for pus culture sensitivity and again Hube Majhi was admitted to the District Headquarters Hospital, Nuapada, where regular dressing was carried out with antibiotics and vitamins and the wounds were subsequently found quite healthy.

Thus, from the materials on record, it is established that the two tribals, namely Hube Majhi and Hari Majhi were grievously injured by bullet firing. The SP, Nuapada reports that Hube Majhi and Hari Majhi sustained injuries by the firing of the Maoist on 8-1-2013. Hube Majhi and Hari Majhi have stated that when they had gone to catch fish from the dam near Khaliakhol hill around 4:00 pm, there was firing from the hill side. Hari Majhi states that he sustained bullet injuries on his left leg, right hand and abdomen, whereafter Police party who were on the village side retaliated such firing. Hube Majhi also corroborated the statement of Hari Majhi. He further states that he sustained bullet injuries on his right elbow, right knee and right lower abdomen. Both the injured admitted that Police shifted them to hospital and looked after their treatment. They have categorically stated that they have heard about the movement of Maoists in Khaliakhol forest area, but they cannot say as to who opened fire at them.

Thus, in view of the grievous injuries sustained by Hube Majhi as is evident from the medical documents, the Commission feels it appropriate that for the pain and sufferings and the trauma caused to the said Hube Majhi for the bullet injuries sustained for no fault of him may be because of Maoist firing or otherwise, he is to be compensated to the tune of Rs.2.5 lakhs. Accordingly, the Commission recommends payment of compensation of Rs.2.5 lakhs by the State to Hube Majhi. In respect of the victim Hari Majhi, who had also sustained bullet injuries, taking into consideration the nature of injuries, the Commission feels that it would be appropriate to recommend his case for grant of Rs.1 lakh as monetary compensation.

The District Administration is advised to consider the plight of the two injured tribals, namely Hube Majhi and Hari Majhi to bring them under BPL category, if they have not already been declared so and necessary assistance be provided to them so that they can live with dignity.

Compliance reports be made available to this Commission within six weeks hence by the aforementioned authorities.

This order be communicated to the Principal Secretary to Government in Home Department along with the medical papers and the report of the SP, Nuapada as well as to the Collector, Nuapada for ready reference.

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

**BHUBANESWAR
6th February, 2014**