

**ODISHA HUMAN RIGHTS COMMISSION**  
**2<sup>nd</sup> Floor, Toshali Bhawan, Satyanagar**  
**Bhubaneswar-751007**

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OHRC Case No. 3413 of 2015

Shri Pramod Chandra Mohanty, Advocate

... petitioner

**ORDER**

The petition filed by Shri Pramod Chandra Mohanty, Advocate, Bhubaneswar before the NHRC, New Delhi was received on transfer for disposal in accordance with the provisions of the Protection of Human Rights Act.

The allegation of the petitioner, in brief, is that when he proceeded to his relative's house at Kandha Nayagarh in Nayagarh district on 11.5.2015 from Bhubaneswar and was passing his time in the farm house of the said relative, Officer In-charge of Chandpur Police Out-post Shri Sangram Keshari Paikray along with other police staff had all on a sudden entered the premises of the farm house and abused the petitioner, an Advocate of Bhubaneswar aged about 75 years in obscene language, threatened of dire consequences and forcibly dragged him to the Police Jeep and took him to Ranapur Police Station. Though the petitioner is a diabetic, he was not allowed to take any food or water or even medicine. The concerned OIC who was in an inebriated state abused the petitioner in the filthiest language in presence of the

IIC, Ranapur PS Shri Bikram Keshari Jena. However, after being subjected to physical and mental torture, the petitioner was served with certain notice and asked to move out of the Police Station immediately.

As mentioned by the petitioner, though he in the same evening had telephonically apprised the S.P., Nayagarh about the way he was dealt with by Shri Sangram Keshari Paikray, OIC, Chandpur Police Out-post at Ranapur Police Station, he maintained silence.

The Commission taking into consideration the nature of allegation of the petitioner had asked the Inspector General of Police, Central Range, Cuttack to cause an enquiry into the matter and submit a report. Perused the enquiry report of Shri Bijayananda Mohanty, Inspector of Police, Crime Branch of the Office of the I.G. of Police, Central Range Cuttack as sent by the I.G. of Police, C.R, Cuttack in its letter dated 30.11.15.

The concerned enquiring officer examined the petitioner Shri Pramod Chandra Mohanty, Advocate, who was picked up by the OIC, Shri Sangram Keshari Paikray from the farm house of one Biswamohan Maharatha of Kandha Nayagarh under Ranpur P.S. limits on 11.5.15 and brought to Ranpur Police Station. The petitioner narrated all about his harrowing experience of the ill-treatment meted out to him by the concerned OIC while in his custody.

The enquiring officer also examined Biswamohan Maharatha, the owner of the farm house, who fully supported the statement of the petitioner and spoke about the alleged rough behaviour of Shri Sangram Keshari Paikray, OIC, Chandpur Out-Post towards him and the petitioner as well.

During enquiry, the concerned enquiring officer came to know that Biswamohan Maharatha and Haramohan Maharatha are two brothers having a farm standing on plot No.570 and 571 measuring about 2 acres of land. There exists government land (plot No.651) right in front of the plot of Biswamohan Maharatha . However, the plot of the Opposite Party members namely; Keshab Khamari and nine others is located about 53 feet away from the plot of Biswamohan Maharatha. Nonetheless, there exists a dispute between Biswamohan Maharatha and Keshab Khamari and other over the government land which stands right in front of the plot of Biswamohan Maharatha. The enquiring officer, on perusal of the encroachment Case records bearing No.779/11, found that Biswamohan Maharatha is in possession of the government land standing in plot No.651 which exists in front of his plot Nos. 570 & 571. Biswamohan Maharatha is also paying rents for the said government land.

The enquiring officer further reports that while on the written report of Biswamohan Maharatha Ranpur PS Case No.88 dated 18.4.15 under Section 448/323/294/506 readwith 34 of the IPC was registered against Keshab Khamari and nine others, Ranpur PS Case No.121 dated 11.5.15 under Section 447/294/506 readwith 34 of the IPC was also registered against the petitioner and others on the written report of Keshab Khamari.

In the concluding paragraph of his report, the enquiring officer has mentioned that due to such overt action of the S.I. of Police Shri Sangram Keshari Paikray shown towards the petitioner on 11.5.15, the S.P., Nayagarh initiated departmental proceedings against him and besides that, he has already been transferred out of Nayagarh district.

The Commission supplied the copies of the petition of the petitioner as well as the report of the Shri Bijayananda Mohanty, Inspector of Police, Crime Branch of the Office of the I.G. of Police, Central Range Cuttack dated 30.11.15 to Shri Sangram Keshari Paikray, ex-S.I. of Police, Ranpur Police Station and presently posted as OIC, Balakati Out-Post to study those papers and file his written response, if any.

Perused the written response of Shri Sangram Keshari Paikray, ex-S.I. of Police, Ranpur Out-Post dated 23.2.16. Also perused the letter of the S.P., Nayagarh dated 13.8.15 addressed to the Additional D.G. of Police (L&O), Odisha, Cuttack which has been supplied Shri Sangram Keshari Paikray, ex-S.I. of Police, Ranapur Police Out-Post.

The written submission of Shri Sangram Keshari Paikray, ex-S.I. of Police, Ranapur Police Out-Post discloses the fact that there was a dispute between Shri Keshab Khamari and Shri Biswamohan Maharatha relating to occupation/possession of government land standing on plot No.651 under Mouza-Khandanayagarh. On the basis of written report dated 18.4.15 filed by Shri Biswamohan Maharatha, Ranpur PS Case No.88 dated 18.4.15 was registered. Further, he stated that on 11.5.15 one Keshab Khamari of village Khandanayagarh filed a written report that when he protested against illegal construction of a boundary wall on government land, both Biswamohan Maharath, Advocate, his brother and the petitioner Shri Pramod Chandra Mohanty, Advocate threatened him with dire consequences and abused in obscene language, and accordingly, Ranapur PS Case No.121 dated 11.5.15 was registered under Section 447/294/506 readwith 34 of the IPC against

Shri Biswamohan Maharath, Advocate and Shri Pramod Chandra Mohanty, Advocate and then he on the direction of the IIC, Ranpur P.S. and SDPO, Sarankul immediately rushed to the spot and found that actually the construction work was going on in presence of all those persons including the petitioner. Although, he told them not to proceed with the construction work as the Opposite Party, i.e., Shri Keshab Khamari has filed a written report at Chandpur Police Out-Post asserting his claim over the land in question, they did not pay any heed to it. As he sensed that unless and until, the work is stopped, there is every possibility of any law and order situation, he immediately consulted the IIC, Ranpur PS and the SDPO, Sarankul and as per their direction notice under Section 41 Cr.PC was issued to Shri Biswamohan Maharatha and the petitioner Shri Pramod Chandra Mohanty.

He further said that at no point of time, he had scolded or detained the petitioner Shri Pramod Chandra Mohanty in the Police Station on 11.5.15 till 2.30 PM or lifted him forcibly to Ranpur Police Station. He also said that he had never misbehaved with him.

He also mentioned that though the petitioner was in no way connected to the disputed land, he being a supporter of Biswamohan Maharatha had involved himself in the case. Since their efforts could not materialise to go ahead with the construction work, the petitioner resorted to false and frivolous allegations against him. He denied not to have given food or drink to the petitioner as he was not the full and final authority of Ranapur PS as because he was functioning under the control and supervision of the IIC, Ranapur PS.

He also mentioned that the S.P., Nayagarh in his letter dated 13.8.15 addressed to the Additional D.G. of Police (L&O), Odisha, Cuttack has categorically stated that “it is not a fact they (petitioners and others) were misbehaved and detained at the Police Station by police and not allowed to have their food and drinks as alleged by the petitioner. Being deprived to get support of local police in constructing boundary wall over a government land claimed by either party to take possession, they have made allegations against local police in a fabricated manner to harass and defame police at different forum. Both the cases have been chargesheeted and under sub-judice. Shri Sangram Keshari Paikray has followed due procedure of law while performing his duties.

The Commission supplied the copies of the response of Sri Sangram Keshari Paikray, ex-S.I. of Police, Chandpur Police Out-Post along with a copy of the letter of the S.P. dated 13.8.15 and also the enquiry report of the Inspector of Police, Crime Branch, Office of the I.G. of Police, CR, Cuttack dated 30.11.15 to the petitioner for his study and submission of written rejoinder to the report as submitted the concerned S.I. of Police.

Perused the written response of the petitioner dated 18.4.16. The main points on which the petitioner has raised his objections/doubts are summarised below.

First of all, the petitioner brought to the notice of the Commission that how the concerned S.I. of Police Shri S.K.Paikray could obtain a copy of the letter of the S.P., Nayagarh dated 13.8.15 and placed his reliance on the same, though he is not supposed to have access to it. The

petitioner has raised a question that in absence of a detailed enquiry report of the SDPO, Sarankul how the report of the S.P., Nayagarh is to be believed, and as such, it cannot be relied upon.

Secondly, the petitioner has stated that it was not understood under what circumstances, the concerned S.I. of Police was transferred from Nayagarh district to another neighbouring district and the S.P., Nayagarh directed to initiate a departmental proceeding against such a honest police officer, who claims to have discharged his duty according to provisions of law.

Thirdly, the petitioner has raised a question that when the Opposite Party, i.e., Shri Keshab Khamari could not produce any record whatsoever justifying his possession of the disputed land, how the concerned S.I. of Police could presume that Shri K.Khamari was in possession of such land. The petitioner has contended that in such a case, the local police could have consulted the Tahasildar, Ranpur or the R.I., Chandpur for ascertaining the actual fact and then, if felt necessary, they could have proceeded against Shri Biswamohan Maharatha and the petitioner Shri P.C.Mohanty for raising illegal construction of boundary wall on government land as reported by the concerned S.I. of Police, Shri S.K.Paikray. There was no reason whatsoever on the part of the concerned S.I. of Police to book a case against them in a hurry.

The petitioner has also stated that as the S.I. of Police Shri Paikray implicated him in a false case and threatened to arrest him in a false case, he was bound to approach the Hon'ble High Court of Orissa for grant of anticipatory bail in his favour.

The petitioner has mentioned that the concerned S.I. of Police at paragraph-9 of his written response has stated that the accused persons constructed the boundary wall on Plot No.650 of Kandha Nayagarh Mouza, as a matter of fact, no such Plot number was not mentioned in the FIR filed on 11.5.15 by Shri Keshab Khamari. This is an example how Shri Paikray, S.I. of Police tried to mislead the Commission without a valid document. Further, the petitioner has mentioned that the Revenue Inspector, Chandpur after visiting the disputed land submitted its report to the Tahasildar, Ranpur vide letter No.344 dated 15.5.15 saying that there is a pre-existing compound wall before the complaint was lodged before the police.

The petitioner has also mentioned that though Shri Biswamohan Maharatha filed a written report before the OIC, Chandpur Police Out-Post, i.e., Shri Paikray, S.I. of Police about on 25.3.15 against Shri Keshab Khamari and others, who have allegedly severely beaten up their men and forcibly felled and took away a tree from his premises, the concerned OIC did not register any case or make any investigation. However, after he was directed by the S.P., Nayagarh, he registered a case only on 18.4.15 after a lapse of 24 days. The petitioner also stated that Shri Paikray, who was appointed as I.O. of Case No.88/2015 was subsequently removed in his place one ASI of Police was appointed as the I.O., for which he harboured a grudge against Shri Biswamohan Maharatha.

Also perused the documents as furnished by the petitioner along with his written response dated 18.4.16.

Perused the petition dated 27.7.16 filed by the petitioner before the Commission along with a copy of the orders of NHRC and a press clipping dated 24.7.16 of 'The Samaj' which are germane to the present case of the petitioner.

The petitioner has mentioned that though he filed a complaint before the NHRC, New Delhi along with two other victims namely; Biswamohan Maharatha and Shri Harmohan Maharatha, his case was transferred to the State Human Rights Commission for enquiry and disposal. However, NHRC, New Delhi while dealing with the complaint and the other two complainants have held the view that the **"allegation of misconduct of the S.I. of Police Shri S.K.Paikray against the complainant and delay in registration of the FIR have been found true during the enquiry and departmental proceedings have been initiated against the erring police official."** The NHRC has further held that **"since the act of the police caused violation of human rights of the complainant, the State is vicariously liable. Hence, issue notice under Section 18 of the Protection of Human Rights Act, 1993 to the Government of Odisha through its Chief Secretary, to show-cause, within six weeks, as to why a monetary relief of Rs.25,000/- (Rupees twentyfive thousand) be not recommended to be paid to the victim Biswa Mohan Maharatha for violation of his human rights."**

There are overwhelming admitted materials on record that on 11.5.2015 when the present petitioner along with Advocate Biswamohan Maharatha and his brother were present at the spot, Shri Sangram Keshari Paikray, S.I. of Police, who was attached to Chandpur Police Out-Post arrived there, and apprehending law and order situation

in the locality and serious breach of peace took the present petitioner and the Advocate Sri Biswamohan Maharath and his brother to Ranpur P.S. and there as per the direction of the IIC, Ranpur IIC and after serving a notice under Section 41 Cr.PC, they were let off but a case was booked against them, i.e. Ranpur PS Case No.121/2015 under Section 294/447/506 read with 34 of IPC. But, however, the FIR submitted by Shri Biswamohan Maharatha on the same day against Shri Keshab Khamari and others was not acted upon till the intervention of the S.P., Nayagarh.

The report of the Inspector, Crime Branch of the Office of the I.G. of Police, CR, Cuttack addressed to the I.G. of Police, CR, Cuttack reveals that due to over act of the concerned S.I. of Police Shri S.K.Paikray to the petitioner on 11.5.2015, the S.P., Nayagarh initiated departmental proceedings against Shri Paikray and Shri Paikray was also transferred from Nayagarh district.

All these facts candidly established that Shri Paikray appears to have acted over-zealously and the enquiry conducted by the I.G. of Police, CR, Cuttack through its Inspector, Crime Branch lends credence to the allegation of the petitioner that he was brought to the Police Station and was misbehaved. Apparently this fact was substantiated when Shri Paikray was transferred from Nayagarh district and departmental proceedings were drawn against him for his wrong action and over acts committed against the petitioner. Hardly there has been a case where one policeman will go against another policeman because of their 'Khaki' commadarie as they always try to find out ways and means to shield the wrong doer by twisting the matter.

Taking a cue of the observation of the NHRC, New Delhi, the petitioner prays that as he is now suffering from prolonged illness at an advanced age of 77 years due to the heavy shock sustained from the arbitrary action of the concerned OIC Shri Paikray, and has incurred heavy expenditure for his medical treatment, he deserves to be appropriately compensated to meet the end of justice.

As already stated above, over the self-same allegation the National Human Rights Commission, New Delhi has recommended a monetary relief of Rs.25,000/- (Rupees twenty five thousand) to be paid to the victim Shri Biswamohan Maharatha for violation of his human rights. Shri P.C.Mohanty, the present petitioner who is a respectable person in the society and also a senior citizen was unnecessarily dragged to the Police Station by Shri Paikray, S.I. of Police where he was appeared to have been put to untold mental harassment and duress and thereby violating his human rights. Since Shri Sangram Keshari Paikray is a public servant and an instrument of police administration, the State is vicariously liable for the wrong doings of Shri Paikray. Hence, on the ground of parity, the Commission recommends the government in Home Department to pay an amount of Rs.25,000/- (Rupees twentyfive thousand) to the petitioner by way of compensation for the alleged violation of human rights and the amount of compensation so recommended is to be released from the salary of Shri Sangram Keshari Paikary, S.I. of Police who is now posted to Balakati Police Out-Post in Khurdha district.

A copy of this order be sent to the Principal Secretary to Government, Home Department, Bhubaneswar as well as D.G. of Police, Odisha, Cuttack for necessary compliance within two months hence.

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