



## **MAHARASHTRA STATE HUMAN RIGHTS COMMISSION, MUMBAI**

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### **SRB/Case 4330 /2011-12**

**Name of the complainant** : Mohd.Bilal Abdul Sattar Memon

**V/s.**

**Superintendent of Police,  
Buldhana.**

**Date** : 10<sup>th</sup> February, 2014

**Coram** : Justice S.R.Bannurmath  
(Chairperson)

### **ORDER**

This complaint is by one Mohd Bilal Abdul Sattar Memon resident of Phatakpura, Khamgaon, Buldhana against the illegal treatment given by the police of Shivaji Nagar Police Station. In this regard it is complained that on 04.07.11 the complainant as a social worker to bring to the notice of the concerned police about the illegal activities going around Khamgaon in respect of sale of illicit liquor, ganja etc. it is complained that on 22.08.2011 at about 9.30p.m a constable of the police station served a notice on him to come to the police station on the next date to attend inquiry in respect of his complaint dated 04.07.2011. It is stated that on the same night of 22<sup>nd</sup> August at about 2.00 p.m, two police officials by name P.I Suryawanshi and P.S.I Raju Pawar barged in to his house, abused him about his giving complaint of inaction of the police in respect of the alleged illicit sale of liquor and ganja etc. It is also stated that his signature were forcibly taken on blank papers and hence as he is concerned about his safety as well as possibility of being involved in false cases against him. He also complains that, for no valid reason his name is included in Goonda list & proclaimed / announced as a muslim fanatic, which has resulted in lowering his dignity in the society & amounts to violation of his human right.

In pursuance of the notice issued by the Commission the Superintendent of Police, Buldhana has submitted a detailed report alongwith the preliminary inquiry made by the S.D.P.O.

Today, the complainant and Shri.Umesh Patil the present P.I of Shivaji Nagar Police Station are present. I have heard both of them at length and perused the records produced.

At the outset, it is to be noted that as per the report of Superintendent of Police, Buldhana the complainant is a criminal and as on date there are five cases registered against him under various provisions like Maharashtra Gambling Act., Maharashtra Prohibition Act. & some Provisions under I.P.C. As per the report of the Superintendent of Police the present complaint is filed by the complainant, who is a communally fanatic belonging to Muslim community and only in order to escape from the criminal cases against him and to protect the other Muslim community people, he has lodged this false complaint.

It is to be noted that as submitted by Shri.Umesh Patil the Police Inspector, out of five criminal cases against the complainant the cases of 2003 & 2005 have ended in acquittal and remaining three cases are pending trial. Since these three cases are pending before the Court, this Commission will not and cannot comment upon the same. But what is my concern is the serious allegation of branding the complainant as fanatic Muslim having criminal background and antecedent which practically brands him being anti-social elements in the society.

For the limited purpose I have looked into the case papers of the three pending criminal cases. The first case in Crime No.93/2009 is in respect of the alleged theft of a cow belonging to someone. The Second case Crime No.17/2010 is a case where the present complainant alleged to have attempted to commit suicide, when the police wanted to take action against him for his alleged illegal parking of an auto-rickshaw and also obstructing the police from carrying out their lawful duty, abusing and assaulting them. The Third Case Crime No.9/13 is in

respect of alleged assault by complainant on one Shaikh Yusuf regarding some money transactions.

As already noted as these cases are subjudice before the court, this Commission cannot comment anything on merit of these cases. It is for the complainant and the police to establish the innocence or the guilt respectively before the court.

But what is to be noted for the present purpose is none of these cases indicates any fanatic communal based activities of the complainant & the present reports make him so only because he belong to a particular community. Mere quarrel with a person of his own community or committing theft or even attempt to commit suicide cannot be used to brand a person as anti-social or fanatically communal person. There must be something more required. Incidentally it is submitted by the complainant and admitted by the police officer that presently his name is included in the Goonda (anti-social) list maintained by the police.

A person cannot be branded or his name cannot be included in the anti-social list unless there is some prima-facie material, may be even in confidential reports. In this regard I repeatedly asked the police officer to show what is the material for my satisfaction, he submits that except above named three cases against the complainant and general information there is no material. It is stated that the complainant has been proclaimed and introduced in the Goonda list in view of the fact that Khamgaon city is a faction filled city where repeated clashes between Hindus and Muslims often take place, often the police have to take precautionary action to prevent such clashes or communal disturbance incidents.

There is no second opinion about the preventive and precautionary action to be taken by the police to prevent such communal clashes resulting in riots, loss of public property and many times lives of the innocent. But that has nothing to do with the present complainant except his being belonging to a particular community and the aforesaid five criminal cases. As already noted out of five two cases ended

with acquitted and remaining three criminal cases do not indicate any factional or anti-religion communal criminal activities. As such the Commission is surprised in the absence of any iota of material how a free citizen is branded as a fanatic communal activist and his name is included in the goonda list as proclaimed anti-social element. Time and again the Apex Court and High Courts of various States have laid down enough guidelines in this regard but unfortunately the trend has continued to include any person in such lists without iota of justification or whims & fancies of police

More shockingly the routine report submitted by the Superintendent of Police is without making any sort of independent enquiry and it is solely based on the so-called report of S.D.P.O declaring the complainant as an anti-social fanatic element. It is to be noted that whenever this Commission directs the concerned higher officers to submit report regarding the alleged violation of human rights, the authority submitting such report is expected to make independent full-fledged enquiry and not submit routine report based on his subordinates instructions or inter departmental communication. The absence of such independent inquiry & submitting report on the biased version of the concerned police, without any basis and even prima-facie material to support such allegations, has unfortunately resulted in branding the complainant as a fanatic, anti-social (goonda) and in fact as admitted by the both sides his name is entered in the police register as a goonda.

The Constitution of India and Criminal Jurisprudence of this Country presumes every person even accused of heinous crime as innocent until the competent court holds him guilty, that too beyond reasonable doubt. The present action of the concerned police in branding a citizen as fanatical communal antisocial element & entering his name in the Goonda List Register, that too without any basis, not only violates the mandate of Constitution of India & Apex Court but also amounts to violation of his human rights. It is made clear here itself that so far as the criminal cases are concerned, the observations made in this case

should not be taken note of for the purpose finding the accused guilty or not in those cases. I have made reference to those cases only to find about the present concern of violation of human right and nothing more.

In view of my aforesaid findings I make the following recommendations :-

- (a) The State Govt. shall instruct the police officers to take appropriate precaution before proclaiming any person as anti-social element or a fanatic belonging to a particular community & even including his name in the goonda (antisocial) list maintained in the police station.
- (b) The higher police officers are required to make independent inquiry whenever reports of violations of human rights activities are noted by the Commission and report are called for & not repeat what the subordinate officer has stated in the submissions made to him
- (c) As the Commission finds that there is clear violation of human rights of the complainant by branding him as an anti-social communally fanatic and an anti-social element, resulting in lowering his dignity in the society, the Commission deems it proper to award a compensation of Rs.50,000/- to the Complainant to be paid by the State within 4 months from the date of receipt of this order and report compliance.

With these recommendations case is closed.

**(Justice S.R. Bannurmath)**  
**Chairperson**

Mumbai.