



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

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Case No. – 1547/2013-14

Name of the Complainant : **The Secretary**
Castribe Employee Sanghatna
Subhedar Lay-out, Hingani
Tal- Shelu, Dist- Wardha

Vs.

Name of the Respondent : **The Superintendent of Police**
Wardha

Date : **31st May 2016**

Coram : **Justice S. R. Bannurmath, Chairperson**

ORDER

This complaint is by the Secretary of Castribe Workers Association, Dist. Wardha is in respect of alleged violation of human rights by the Police Officers viz. Shri. Vikram Sale – Dy. Superintendent of Police, Shri. Kunghatkar - Police Sub Inspector and Shri. Gopal Bisne - Police Sub Inspector. It is alleged that there is one company called M/s. Noble Explochem Ltd., Hingani and the victims Shri. V B Thool, Shri. Ramesh Chivahane, Shri. Uttam Khadge, Shri. Raju Dukre, Shri. Devrao Ahake were the employees in the said company and out of them Shri. V B Thool was working as the Secretary of the Association during the relevant point of time. It is stated that since the company was closed in 2006 the Association was fighting for their cause and as such were the targets of the owners of the company. It is alleged that on 11.06.2012 there was an explosion in the Company causing damage to the property. Surprisingly the owners of the

Company did not report the same and as such villagers reported the same to the Police and the Police registered a case on 13.06.2012 and arrested the managing director Shri. Ramesh Kothari and Security Supervisor Shri. Vinod Varahade and arrested them. It is alleged that thereafter in collusion with the owners and to take revenge against the Secretary and Members aforesaid workers Association which was fighting the cause of the workers, the Secretary and four other members named above were arrested on 23.05.2013 and 25.05.2013. It is further alleged that in collusion with the owners of the Company the Police started bringing pressure on the victims and not only arrested them but also physically assaulted them with threats to agree for the compromise to the Company over payment of compensation etc. to the erstwhile workers. It is stated that at the relevant time of explosion one of the victim by name Shri. Chivhane was in fact working in another company called as Tech Synergy Pvt. Ltd. Which is at a distance of about 40 – 45 kms from the Noble Explochem Ltd. and though he was nowhere near the explosion site, he too has being falsely implicated.

Since, serious allegations of violations of human rights were made against the concerned Police Officers, the Commission called for a report from the Superintendent of Police, Wardha and accordingly, a report dated 5th September 2015 was filed.

On going through the said report stating that registering a case against the five victims, arresting them and the denial of permission by the District Magistrate to file charge sheet against them on the ground of insufficient and contradictory material provided and accordingly the concerned Police have filed 'C' report to the Court on 16.06.2015. Noticing that there was absolutely no reference or denial to the allegations made in the complaint against the Police, by the order dated 14.03.2016 the Commission directed

the concerned Police to file a detailed report adverting to the allegations of harassment illegal arrest alleged torture etc.

Today when the matter is called Shri. Vilas Kanade – Dy. Superintendent of Police present has filed a report along with certain documents including statements of the victims and some Police Officials denying the allegations of violation of human rights by the concerned Police.

On going through the complaint, the two reports filed by the concerned Police Official and the records annexed to the reports, it is at the outset to be noted that no doubt the concerned Police have now denied the alleged assault or ill treatment to the victims (complainants) and in this regard have produced the alleged medical certificates issued by the General Hospital Wardha issued after the their arrest. It is to be noted that these certificates are Xerox copies and almost illegible. Apart from the same the necessary information in these certificates like the name of the Doctor who examined the patient / accused the date and other particulars of the alleged accused and who produced them have not been entered in the printed form at the appropriate place. As such nothing can be made out about the alleged existence of injuries or non-existence. In this regard it is stated that the victims were produced before the Court immediately after arrest and subsequently for remand and that they have not complained to the concerned Magistrate regarding the alleged assault or harassment. In the absence of any clear material this aspect also cannot be gone into.

However, the fact remains that as per the noting of the Judicial Magistrate discharging the alleged accused (victims) from the offences is solely on the ground of failure of sufficient material produced by the concerned Police along with charge sheet to pin point the role of the accused

(victims). The learned Magistrate has specifically noted that there are contradictory statements in the investigation material as well as total absence of information as to the explosion and any inquiry in that regard by the concerned Police and that is why the District Magistrate has refused the permission to file charge sheet.

Taking into consideration these aspects especially inaction on the part of the concerned Police to investigate the cause of the explosion in the sense as to whether it was accidental or deliberate, inaction on the part of the concerned officials as to how the explosive material was found stored in the factory premises even though the factory was closed in the year 2006 itself and the explosion took place almost six years later shows prima facie some collusion between the investigating agency and the owner of the factory to hide the truth. Though initially a case is registered against the owner and the security staff that has been given go by and later the present victims who are the office bearers of the workers union who were fighting for the cause of the workers for their salaries due have been made unsuccessfully as accused. It is stated that litigation in respect of the salaries etc. is pending before the appropriate forums. In my view the apathy in investigation and prima facie findings based on the discharge report of the Court and the refusal of the District Magistrate even in refusing to give permission to file charge sheet speaks volume about the alleged collusion. As such the Commission is of the view that the victims have been made scapegoat by implicating them as accused in the explosion case which was also required to be informed as inaction and partisan attitude. Since the victims were in custody for about 20 days, the same has to be now held as illegal custody in the absence of any investigation material to show their participation in the alleged crime. The

Commission is of the view that their human rights have been violated seriously.

For the reasons stated above as the Commission finds violation of the human rights of the victims following recommendations are made :

- A) That the State shall take appropriate steps including the departmental inquiry if necessary against the Police Officers responsible for the illegal arrest and detention of the victims.**
- B) The State shall pay a compensation of Rs. 25,000/- each to all the victims within four weeks from the date of receipt of this order and report compliance of the same to the Commission four weeks thereafter.**

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