



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION, MUMBAI

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SRB/Case No. 4024/2011-12

Name of the complainant : **Rajaram S.Sonwalkar**

V/s.

Commissioner of Police, Navi Mumbai.

Sr.Police Inspector, Kharghar Police.

Date : **18th November, 2013**

Coram : **Justice S.R.Bannurmth
(Chairman)**

ORDER

This complaint is filed by one Shri.Rajaram S.Sonwalkar then working as watchman of A.T.M of IDBI Bank at Kharghar, Sector-7, alleging that on 28.04.2011 while he was on duty two police constables including one Shri.Shivaji Patil Head Constable came to the said ATM at about 2.00 a.m and on an allegation that he was sleeping on duty took him to the Police Station and assaulted him all over the body including testicles causing severe physical injuries as well as mental trauma and hence prays for taking action against erring police officials. In this regard he has also produced medical certificate issued by the Govt. Hospital.

As it was a case of assault by police & notice was ordered to the Respondents, in response Shri.S.B.Suryawanshi ACP Panvel on behalf of the Commissioner of Police Navi Mumbai is present and has filed detailed report. In respect of the allegations it is contended that it is true that in the night of 20/21-04.2011 at about 2.00 a.m the said head constable Shri.Patil and another while on night Beat Petrol found that the complainant who is a watchman of an A.T.M was found sleeping and as such after warning him about his duty, in order to keep him

awake he was asked to run for a distance and come back and this was done only with an intention to keep him awake for the next part of duty.

It is further stated that as in this regard similar complaint of alleged assault was given by the complainant to the Commissioner of Police and Incharge of the Police Station, an inquiry has been conducted by the A.C.P and Senior Police Inspector, Kharghar. It is stated that after an inquiry the Head Constable was found guilty of indiscipline and irresponsible behaviour toward public (complainant) and after giving the show-cause notice as to why a fine of Rs.1000/- should not be imposed and on receipt of the reply, the said head constable was fined Rs.100/- as per the report dated 07.01.2013. It is submitted in the reply that probably being dissatisfied with enquiry the present complaint to this commission has been filed, as is apparent from the fact that earlier also the wife of the complainant has made similar complaints to the police authorities.

On perusal of the records and submission it is clear that the said head constable Shri.Shivaji Patil has acted irresponsibly and taken law in his hand and prima-facie from the medical report it is seen that there are injuries though of simple nature on the person of victim & indicates possible use of hands & blunt weapon. But what is shocking is the inaction on the part of the superior officers. Though a complaint of assault by police head constable is given without making proper inquiry as to the nature of injuries, it's cause etc., the A.C.P has though found the said head constable guilty, on flimsy ground ordered to pay a meager fine of Rs.100/-, especially when there is a finding that complainant was brought to the police station & no prompt records were maintained in this regard.

It is noted from the documents produced by the complainant especially the medical certificate, which clearly indicates that the complainant was assaulted by hand and blunt weapon on his body. But there is no reference to either the injuries or the gravity of the situation created by the head constable. Even awarding a

meager fine of Rs.100/- is also in my view disproportionate to the conduct of the head constable.

On detailed consideration of the entire incident and keeping in view the simple nature of injuries and possible exaggeration on the part of the complainant especially the alleged assault on the testicles (not found in the medical examination), I find that the said head constable Shivaji Patil a police official has violated the human right of the complainant by assaulting him.

As such the Commission makes following **recommendations:-**

- (a) As the complainant was not involved in any crime, his arrest & assault on him being illegal & violation of human rights the State Govt. should compensate the victim complainant by payment of compensation of Rs.25,000/- within 4 months from the date of receipt of this order & report compliance.**
- (b) Direct the Commissioner of Police to hold proper fresh D.E enquiry & pass appropriate orders and submit report of compliance in 6 weeks.**

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

Mumbai.