

**NATIONAL HUMAN RIGHTS COMMISSION**  
**(Registrar (Law) Secretariat)**

\*\*\*\*\*

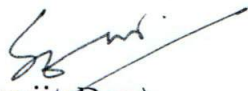
2<sup>nd</sup> June, 2023

**CIRCULAR**

Enclosed please find herewith the proceeding of the Full Commission vide case No.4424/20/22/2022 (Complainant – Rajhans Bansal) dated 1.6.2023 which will speak itself.


All concerned are requested to adhere to the direction issued by the Full Commission dated 1.6.2023 while dealing with complaints hereinafter.

SSA is requested to upload the above proceeding in the website for wider dissemination of information.

  
(Surajit Dey)  
Registrar (Law)

To

1. All Presenting Officers
2. All Deputy Registrars
3. All Assistant Registrars
4. All Section Officers
5. All Consultant (Proceedings)
6. All LRCs
7. ~~SSA~~

  
02/06/23

Copy for information to:-

SA

1. PPS to Hon'ble Chairperson
2. PPS Hon'ble Member (DDMM)
3. PS to Hon'ble Member (RJ)
4. SG
5. DG (I)
6. JS(AS)/JS DKN)
7. DD(M&C)

NATIONAL HUMAN RIGHTS COMMISSION  
MANAV ADHIKAR BHAVAN  
LAW DIVISION

Name of the Complainant : Rajhans Bansal  
Case No. : 4424/20/22/2022  
Date Reserved : 22.05.2023  
Date Delivered : 01.06.2023  
Coram : JUSTICE ARUN MISHRA  
CHAIRPERSON  
DR. D.M. MULAY, MEMBER  
SHRI RAJIV JAIN, MEMBER

**PROCEEDING**

The Complainant, a human rights activist, wrote a letter in which he has quoted an incident wherein a contractual electrician Shri Bhanwar Lal s/o Champa Lal died due to electrocution while repairing an electrical fault at District Nagur, Rajasthan, on 16.09.2022. The Complainant has further submitted that the Electricity department/ Company have flouted directions of this Commission given vide case No. 11364/24/31/2020 to all the State Governments. Therefore, he has requested the intervention of the Commission in the matter.

The Commission took cognizance in the matter on dtd 22.09.2022 and directed the Chief Secretary, Govt. of Rajasthan, Jaipur, and CMD, Rajasthan Rajya Vidyut Utpadan Nigam Limited, through online mode, to ensure needful action and submit an action taken report to the Commission within six weeks.

A multi-member enquiry committee report dated 15.02.2023 headed by the Ex. Er., Nagore is forwarded by the Jt. Secretary, Energy, Rajasthan. It is concluded that the accidental electrocution death of Bhawar Lal s/o Champa Ram Valmiki (S.C.) on dtd 15.09.2022 occurred due to negligence of the J.E, the Feeder In-charge and the contracting firm, and directions have been issued on dtd 14.02.2023 to initiate action against them in accordance with the law.

It is further submitted that the monetary compensation amount of Rs. 5,00,000 (five lacs only) was approved by the Committee to be paid to the NOK/father of the deceased victim on dtd 13.02.2023, and the same shall be disbursed as soon as the NOK provided the requisite documents and the affidavit.

Meanwhile, the Commission also received a letter dated 09.03.2023 from the NOK, i.e., father of the deceased, Sh. Champa Lal, wherein he stated that he is completely satisfied with the amount that the Electricity Department has sanctioned for the electrocution death of his son Bhawar Lal and that he wants no action in the matter.



The NOK/father in the letter has also informed that neither he nor any member of his family has raised any dispute to claim amount of compensation, nor have they given permission to anybody to raise the dispute in the Commission. Only on the basis of newspaper cutting and without their permission, Rajhans Bansal has filed the instant complaint in which they do not want any further action.

In the case, issue of seminal importance qua lodging of complaint by a person other than victim has been raised which has necessitated the Commission to decide the issue of who can lodge complaint on behalf of a victim of violation of human rights.

Therefore, considering the response of the victim, the Commission deals with the issue pertaining to the interpretation of Section 12(a) of the Act an entitlement of a victim to lodge a complaint. However, the term "**or any person on his behalf**" mentioned in Section 12(a) of the Protection of Human Rights Act, 1993 (in short PHR Act) requires consideration, which is quoted hereinunder:-

*"12 . Functions of the Commission – The Commission shall perform all or any of the following functions, namely:-*

- (a) inquire, suo motu or on a petition presented to it by a victim or any person on his behalf [or on a direction or order of any court], into a complaint of*

- (i) *violation of human rights or abetment thereof; or*
- (ii) *negligence in the prevention of such violation by a public servant;”*

*(emphasis added)*

Admittedly, in this case, the complaint was registered on the basis of letter written by human rights activist Rajhans Bansal by submitting that it is necessary to bring to the notice of the Commission that one person had died due to electrocution while repairing an electrical fault at District Nagur Rajasthan on 16.09.2022.

It is crystal clear that while writing the letter, the Complainant, human rights activist, had no personal knowledge. He has brought the incident to the notice of Commission. Therefore, a question arises qua who can present a complaint to the Commission other than the victim, i.e. on behalf of the victim. The term victim refers to the person who has directly suffered harm or injury due to human rights violation by the public servant and abetment thereof by an act of negligence.

The phrase "**victim or any person on his behalf**" suggests that a complaint can be filed with the National Human Rights Commission (NHRC) by either a victim of human rights violation or any person acting on his behalf.



The expression used "any person" is wide in connotation, any person inter alia may be Human Rights Defender, he is not required to be an advocate competent to practice law. 'Any person' may not be a relative or beneficiary. In many cases, the victim may be unable to file a complaint or petition due to various reasons, viz. fear of retaliation, lack of resources, or being in custody. In such cases, "any person" concerned about the victim's welfare can file a complaint or petition on the victim's behalf. However, the matter does not rest at that.

The phrase "**any person**" include family members, friends, lawyers, human rights organizations/defenders, or anyone with a genuine interest in protecting the victim's human rights.

Since the NoK of the victim raised a point with regard to the locus standi of the human rights activist to lodge the complaint on behalf of the victim on the basis of newspaper report without knowledge or being instructed by him.

We are required to consider the expression "on his behalf". It has been explained in **Black's Law Dictionary** thus:-

"On behalf of means 'in the name of, on the part of, as the agent or representative of'".

In **Oxford English-English Hindi Dictionary** 'on behalf of' is explained to mean:-

"As the representative of"

In "**New Oxford Thesaurus of English**" the (emphasis applied) expression "on behalf of" is explained to mean :-

"On behalf of/on someone's behalf" – As a representative of, as a spokesperson for, in the name of, with power of attorney for, in place of, on the authority of, at the behest of, appearing for, representing, in the interest of."

The Apex Court in **W.O. Holdsworth And Others vs. The State of Uttar Pradesh** (1958 SCR 296) considered the expression 'on behalf of' thus:-

"The very words "on behalf of" predicate that the land is held by such common manager, receiver, administrator or the like not as the owner but as the agent or representative of these persons and he manages or administers the same either in accordance with law or the terms of the agreement arrived at between the parties."

The expression "on behalf of" connotes some benefit to the person on whose behalf another person acts as observed in **Uttam Chand vs. The King Emperor** (16 CWN 551). It also refers to a contract by certain parties



"on behalf of" others prima facie imports that they made the contract only as agents. The words "on behalf of" connotes an agency. A relative, authorized to file a complaint by a wife, acts on behalf of the wife and after the death of the wife, the relative no longer acts on behalf of wife as opined in **State of Mysore vs. Gangama (AIR 1965 Mysore 235)**. It clearly demonstrates that on behalf of an employee, a person can act for the benefit of that employee in the form of an agent or a legally authorized person, who, in every respect, is the principal person, must know or be aware of what the person on his behalf is doing and it will cease to effect, as soon as the consent is withdrawn or the actual person is no more available to give further consent and therefore, the person on behalf of him cannot act any further.

In commercial transactions, the expression "on behalf of" means that the holder of the property is the only representative of the real owner as held in **Kripa Shankar vs. Commissioner of Wealth Tax (AIR 1966 Patna 376)**.

Furthermore, the term "on behalf of" has also been expressed in Section 199 of the Indian Contract Act, 1872, which specifies that a person ratifying any unauthorized act done on his behalf ratifies the whole of the transaction of which such act is found a part. By necessary implication, it is clearly discernible that authorization is *sine qua non*, with regard to any act done on behalf of a person and unless that authorization is given for the whole or part of the act, under the law, the said act or part of the act shall



have no legal effect, and it should be treated as an unauthorized transaction by a person acting on behalf of another person's benefit.

In the case of **K.Ramdas Shenoy vs. Chief Officer, Town Municipal Council** [(1974) 2 SCC 506], it has been held that in case of a breach of statutory duty created for the benefit of an individual or class of individuals, an individual who is one of a class for whose benefit such obligation is imposed can enforce the performance of an action for damages.

A Constitution Bench of the Supreme Court in the case of **Bar Council of Maharashtra vs. M.B. Dabholkar** [(1975) 2 SCC 702] specifies the meaning of 'person aggrieved' which are found in several statutes and the meaning will have to be ascertained with reference to the purpose and the provisions of the statute. It may vary according to the context of the statute.

In the case of **Reserve Bank of India vs. Peerless General Finance and Investment Co. Ltd.** (AIR 1987 SC 1023), it has been held that interpretation must depend on the text and the context. They are the bases of interpretation. One may say well that if the text is the texture, the context is what gives the colour. Neither can be ignored. Both are important. That interpretation is best, which makes the textual interpretation match the contextual.

**In Ramdeo Chauhan alias Rajnath Chauhan vs. Bani Kant Das & Ors** (AIR 2011 SC 615), Section 12(j) of the PHR Act, 1993 came up for consideration. The Apex Court observed as follows:-

"52. Keeping those broad principles in our mind if we look at Section 12 (j) of the 1993 Act, we find that it confers on NHRC "such other functions as it may consider necessary for the promotion of human rights." It is not necessary that each and every case relating to the violation of human rights will fit squarely within the four corners of Section 12 of the 1993 Act, for invoking the jurisdiction of the NHRC. One must accept that human rights are not like edicts inscribed on a rock. They are made and unmade on the crucible of experience and through irreversible process of human struggle for freedom. They admit of a certain degree of fluidity. Categories of human rights, being of infinite variety, are never really closed. That is why the residuary clause in sub-section (j) has been so widely worded to take care of situations not covered by sub- sections (a) to (i) of Section of the 1993 Act. The jurisdiction of NHRC thus stands enlarged by Section 12 (j) of the 1993 Act, to take necessary action for the protection of human rights. Such action would include inquiring into cases where a party has been denied the protection of any law to which he is entitled, whether by a private party, a public institution, the government or even the Courts of law. We are of the opinion that if a person is entitled to benefit under a particular law, and benefits under that law have been denied to him, it will amount to a violation of his human rights."

.....

"68. After the aforesaid observations this court decided that when in exercise of its power under Article 32, this Court gives any directions to NHRC, then like all other authorities in this country, NHRC is bound by such directions. In such situations, NHRC acts 'sui-generis'. The statutory bar of limitation under Section 36(2) of



the 1993 Act will not stand in the way (paras 12 and 15, pages 137-138 of the report)."

In **G Manikyamma & Ors. vs. Roudri Cooperative Housing Society Ltd & Ors.** ( 2015) SC 720, Section 12 of the PHR Act also came for consideration. I was observed as follows:-

"42. The Human Rights Commission, in our view, would not be competent forum for the examination of the above-mentioned issues. Both the first respondent Society as well as the encroachers, in our view, wrongly invoked the jurisdiction of the Human Rights Commission instead of pursuing the appropriate remedies available to them in law, and the Human Rights Commission was too willing to exercise authority without any jurisdiction. We are also of the opinion that the High Court resorted to more of a mediation activity than the determination of the legal issues involved in the case.

43. In our opinion, the Human Rights Commission does not have any jurisdiction to deal with the disputed questions of title and possession of the property."

In **Miss Gayatri Panda vs. Maheshwar Mohanty & Ors.** (2009) CLR 738) (equivalent to (2010) 109 CLT 362) (DB), Orissa High Court held that no action could be taken on the letter of the State Govt., rather it could be treated as information to the Commission and only suo motu action could be taken by the Commission on the basis of such a letter. The Court opined thus:-

"10. With regard to the above, Section 12 of the Protection of Human Rights Act shows that the Commission's functions have been laid down in which it has been at the very outset indicated that the Commission shall perform all or any of the functions mentioned in clauses (a) to (j). In Clause (a), it has been provided that the Commission shall inquire, suo motu or on a petition presented to it by a victim or any person on his behalf, into complaint of (i) violation of human rights or abetment thereof or (ii) negligence in the prevention of such violation by a public servant & in Clause (b), it has been provided that the Commission may intervene in any proceeding involving any allegation of violation of human rights pending before a Court with the approval of such Court. The Commission had chosen the function mentioned in Clause (a) & not in Clause (b) & it took suo motu inquiry into the complaint of violation of human rights. It was not necessary for the Commission to invoke clause (b) while invoking clause (a). Therefore, there was no question of intervention by the Commission with the proceedings pending before the Court of the Learned S.D.J.M., Bhuvaneswar in G.R. Case No. 1316 of 2008."

.....

"13. "Section 12(a) of the Act provides only two modes for taking action. The first mode is suo motu inquiry and the second mode is on a petition presented to it by the victim or any person on his behalf. No action could be taken on the letter of the State Government rather it could have been treated as information only to the Commission by the State Government. Therefore, the Commission took cognizance of the matter suo motu & in our opinion, there was no illegality committed by the Commission in taking suo motu action."

The expression "on behalf of" refers an agency which brings about a relationship between a principal and an agent between the parties, one of whom is acting on behalf of another. It can be construed that to apply the principle "on behalf of", there must be a relationship between principal and agent, inasmuch as, whoever complains on behalf of the victim, must have



a direct nexus with the object to attain benefit on behalf of the victim but under no stretch of the imagination, it can be construed that a person who is not even aware of the facts and circumstances of the victimhood of the human rights violation of such victim and has also not been authorised by victim or his NoK, is competent to lodge the complaint merely on the basis of third party information including newspaper report or electronic media report. Such a person is only bringing the incident to the notice of the Commission and it would be open to take suo motu cognizance on such information in appropriate matters.

There is no locus to register a complaint based on general information, which is available in media both electronic or print media. Such a person can only bring to notice of the Commission an event or incident of reported violation of Human Rights for 'suo motu' action by the Commission.

In the instant case, PHR Act empowers the Commission to entertain the complaint for inquiry either suo motu or on a petition presented to it by a victim or any person on his behalf. It clearly signifies that in case any person brings to the notice of the Commission about an incident of human rights violation based on a media report, be it electronic or print, he is just bringing facts to the notice of the Commission about such incident of violation of human rights so reported in the media, print or electronic and, therefore, as per the literal interpretation of Section 12(a) of the PHR Act, it

is in discretion of the Commission as per established procedure to take cognizance of such information based on media report suo motu.

In that view of the matter, the Commission is of the considered opinion that any complaint, offline or online, merely based upon information gathered upon newspaper report or report in electronic media by any person, cannot be treated to be a complaint for the purpose of registration of NHRC complaint case.

It is ordered that henceforth :-

1. No complaint should be registered on the basis of a letter informing the Commission of an incident, based on a media report/general information of incident.
2. Such a letter should be placed for consideration whether suo motu proceedings to be registered/initiated.

(Justice Arun Mishra)  
Chairperson

(Dr. D.M. Mulay)  
Member

(Rajiv Jain)  
Member