

REPORT ON ILLEGAL DETENTION OF A PRISONER IN DIST. JAIL, PHULBANI.

One Life Convict bearing No.5434/A, Pratap Naik, S/• Rahas Naik, Village Ghimuhani, District Phulbani was admitted in Phulbani District Hd.Qrs.Jail on 5.2.1989 in connection with an offence U/s 147/323/331/302 I.P.C. After that he had been shifted to different Jails for his confinement. Lastly he was received in Phulbani Dist.Jail on 26.7.2002.

In Crl.Appeal No.05/90 the Hon'ble High Court in their judgement dated 31.10.94 acquitted the accused. This order of Acquittal as per practice is to be sent to the Court of Dist.Judge, who will send a warrant to discharge the prisoner. Strangely the order of the High Court was not communicated till January,2003 resulting in, illegal confinement of Pratap Naik in Phulbani Dist.Jail for more than 8 years. This warrant of discharge has been communicated to the Superintendent of Dist. Jail, Phulbani on 22.1.2003 by the Dist.Judge, Phulbani and Pratap Naik was released from the Jail on the same day. Copy of the warrant of discharge is enclosed. Thus, it will be seen that a prisoner who was acquitted by the Apex Court in the State has remained confined to the jail for nearly 8 years for no fault of his. Nothing could be a grosser violation of human rights than illegally confining a person in a jail for 8 years.

What is tragic was yet to come. One Sri Prabir Ku.Das, Advocate and Human Rights Activist in Writ Petition No.4149/2005 (a Public interest litigation) prayed the High Court to fix responsibility and to direct the State Govt. to pay a sum of Rs.10.00 lakhs as compensation to the victim. The Advocate General in his letter dated 31.3.05 to the Home Secretary, Govt.of Orissa,

Registrar, High Court of Orissa and Addl. D.G.P.-cum-I.G. of Prisons, Bhubaneswar (copy enclosed) has requested to cause a thorough enquiry and fix responsibility on the person concerned for such gross negligence. The petitioner in his writ petition has highlighted the fact that such an instance of violation of human rights is perhaps unparalleled in the legal history of our country. It seems earlier he had filed a P.I.L. in the Supreme Court in January, 2005 vide S.C. Case No. 540/SC/PIL 2005 dtd. 20.1.05 wherein he was advised to approach the State High Court.

News Paper reports in the first week of April '05 indicated that the High Court has dismissed the P.I.L. on the ground that the petitioner is no relation of the victim. This has baffled many in the State on the issue of delivery of justice by the Apex Court in the State and also judicial accountability. I am trying to obtain a copy of the High Court Order which will be sent in due course.

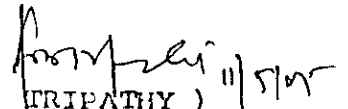
The above report under scores the following :-

(1) A convict acquitted by the High Court in a CrI. Appeal in the year 1994 continued to languish in the Jail till 2003 just because the Order of Acquittal was not communicated to the Dist. Jail, Phulbani.

(2) The P.I.L., which was admitted, requested for relief on 2 counts, (a) fixing of responsibility for this inexcusable delay, (b) payment of compensation. This has been dismissed by the High Court of Orissa.

It is learnt that the State Human Rights Commission on the basis of News Paper Reports has called for a report from the Home Secretary. This will be a routine exercise, in which the Home Secretary will ask the Addl. D.G.P.-cum-I.G. of Prisons to submit a report which will be transmitted to the State Human Rights Commission.

The above report is based on facts and news paper reports which are available with me. If after enquiry a Clerk of District Judge Court, Phulbani is suspended or taken to task, it will be only an eye-wash. The issue of accountability and awarding compensation to the victim will remain unanswered. I feel, the N.H.R.C. will be able to deal with the issue on an appropriate basis.


(A. B. (TRIPATHY))