



भारत सरकार
GOVERNMENT OF INDIA
राष्ट्रीय महिला आयोग
NATIONAL COMMISSION FOR WOMEN
4, दीन दयाल उपाध्याय मार्ग
4, DEEN DAYAL UPADHYAYA MARG
नई दिल्ली-110 002
NEW DELHI-110 002
Website : www.ncw.nic.in

No.8/4(136)PM/2013-NCW

19th December, 2013

To

The Chief Secretary
Govt. of Odisha, Secretariat,
Bhubaneswar- 751001

Sub- Recommendations of the Inquiry Committee visit

Sir,

I am directed to state that the National Commission for Women (NCW) has taken suo motu cognizance and constituted an Inquiry Committee under Section 8(1), read with Section 10(1) and (4) of the NCW Act, 1990 to inquire into the media report titled 'Odisha : teacher set on fire, blames official' wherein reportedly a school teacher was set on fire in Odisha's Raygada district, allegedly because she refused to withdraw a sexual harassment complaint against a sub- inspector of schools, who has been hiding for past two months.

After looking into the facts and circumstances of the present case, the Commission strongly recommends the following:-

Key Recommendations :

1. Handing over the Case to CBI : After making a detailed review of the proceeding of the State Crime Branch in the case so far, records relating the stand of the State Government pertaining the case, all circumstances and background and plea of the victim's family & key witnesses, the Inquiry Committee is of the view that the case should be immediately handed over to CBI for ensuring justice to the deceased as well as unearthing the truth, that is so crucial for averting such heinous incident in future.



a. **Failure to arrest the main culprit** : Even after over 45 days to the incident, the State Crime Branch has failed to trace the assailants who set the victim on fire. The crime branch has even failed to issue a sketch of the victim nor crack the conspiracy behind it. Even worse, the proceeding of the crime branch in this regard is enough discouraging to suggest any significant result in near future.

b. **Allegation of Destruction of Evidence** : The victim's family members in their recorded statements before the inquiry committee has raised serious doubts over the intention of the state crime branch. The victim's family has alleged that the state police is on a "mission to destroy all evidences" relating the case as it involves powerful people of the ruling establishment.

c. **Involvement of Powerful People of the Ruling Establishment**: The victim has repeatedly mentioned regarding involvement of some powerful people from the ruling establishment in her several letters to the state and district authorities. In a letter dated July 29, 2013, addressed to the District Collector of Rayagada, the victim clearly mentions that she fears a "real and definite" danger to her life owing to influence of this leaders of the ruling establishment.

The victim's family in their recorded statements before the NCW Inquiry Committee has alleged that the victim before her death had disclosed regarding three phone calls she had received on her mobile phone asking to withdraw the case against the alleged accused School Inspector. The victim had disclosed that the callers included a Member of Parliament and a Minister belonging to the region.

Keeping in view the above facts and conduct of the state crime branch so far, it can hardly be believed that it is in a position to deliver justice to the victim. And hence, the State Government should immediately issue a notification handing over the case to CBI for investigation.

2. Exemplary action against the District Collector and SP : After taking into account all evidences and records, the Inquiry Committee is of the opinion that both the District Collector and the Superintendent of Police of Rayagada district should be immediately placed under suspension from service for serious dereliction in duty, amounting to no less than "Criminal Negligence", leading to the killing of the lady teacher. Further proceedings should be drawn against them as per law for the charges brought out underneath.

It is indeed surprising what led the State Government to let off the Collector and the SP who are definitely more guilty than anyone else in their official capacity and given their singular responsibility for overlooking the repeated plea of the victim for her safety, in days leading to the incident.

a. **Charges against the District Collector** : The victim in her letter dated July 29, 2013, delivered to the Collector in person during grievance, had clearly & categorically pleaded for safety of her life, in face of a serious threat of rape and murder.

The letter with the subject line "Callous attitude of the Tikiri police against my FIR pertaining the attempt to rape and murder" goes on to say "I may inform your honour that the 'alleged accused' is arrogantly threatening to make all attempts for arranging a gangrape and murder. No one can save me from his clutch as he is a kith and kin of a ruling party M.P." After making a detailed description as to why the threat of rape & murder on her is so pertinent, the victim in the last paragraph has pleaded for her safety : "In this context, I may pray your magnanimity to arrange as early as befitting the security of my life and property along with taking action against the accused".

But instead of arranging for the security of the victim, keeping in account such grievous threat, the Collector chose to overlook the entire matter and instead ordered a routine inquiry into sexual harassment of the victim by the School SI with a mandate to submit the report in three month time.

In her hand written note the victim writes that though she met the Collector several times, he simply refused to do anything until he receives the report on sexual harassment. What led the District Collector to overlook such a grievous matter, in a manner amounting to no less than criminal negligence, resulting in the brutal killing of an innocent women? Why didn't he even arranged for the transfer of the victim to a place away from Tikiri in the same district, as pleaded by her, for her safety ?

b. Charges against the Rayagada S.P. : The Superintendent of Police of Rayagada district is equally guilty of overlooking such serious threat to the life of the victim, failing to arrange even minimal security for the victim despite her repeated pleading and responsible for some serious lapses in the conduct of the district police leading to the brutal killing of an innocent women.

In her third F.I.R. filed with the Tikiri police station dated 16th August 2013, against the brother and nephew of alleged accused school inspector, the victim had alleged that both the relatives of alleged accused approached her near the Tikiri school and threatened her withdraw her FIR against the alleged accused school SI or face the consequences. They openly threatened the victim of gangrape and murder.

But despite such serious charges against both the alleged accused, why the district police failed to take any action? Against the backdrop of such a FIR and repeated threatening calls to the victim, a lonely lady fighting a lonely battle for justice in a far away place, doesn't her safety comes under any priority in the agenda of the concerned S.P. ?

The Rayagada SP in his defence has submitted that he has suspended an ASI and transferred the Tikiri police SI on October 28th. Was he waiting for last four months for the innocent lady teacher to be burn't alive on October 27th to take action on the erring police officers the next day ?

Similarly, the SP submits that the district police have arrested the absconding alleged accused School SI on October 30th based on call locations. Was the call locations not available since last four months? How could the same police that have failed to arrest the alleged accused school SI, declaring him as absconding for last four months, is able to arrest the alleged accused within less than 36 hours, once the lady teacher is burn't alive on October 28th ?

3. Investigation into Inaction of the State Machinery : In a handwritten note of the victim, written after 73 days since she filed her first F.I.R. on 18th July, 2013, the victim brings out her intense suffering at the hand of the state and district administration.

In the note titled "I am not getting justice from anywhere", the victim writes how she has been passionately begging for her life and safety, approaching all top authorities in the state from the Chief Minister, Education Minister to the District Collector and SP. She had even appeared before the State Women Commission, pleading for justice and safety of her life. Not getting any hope from anywhere, she describes how the spectre of death is mounting on her, with regular threat to withdraw the FIR she had filed against the alleged accused School Inspector or face "gangrape & murder".

Under such circumstances, the silence of the entire state administration, as a lonely girl fights for justice and her own life, is unique in the history of Indian democracy. The above act of the State Government, throwing to wind its foremost constitutional obligation to protect the life and liberty of its citizens, poses a serious challenge to the constitutional governance of the country and has raised a credible question-mark on the constitutionality of its government itself.

And if found to be true, as alleged by the victim herself in her handwritten notes and letters that the authorities were acting at the behest of some powerful leaders of the ruling establishment, to protect the alleged accused School Inspector, it is indeed an extremely serious development.

Therefore, an independent and detailed probe should be launched to unearth the reasons that led the administration to act as mute spectator, as an innocent girl fighting a lonely battle for justice, is burn't alive by her powerful assailants.

4. Independent and detailed probe of the Victim's oral statement naming the Chief Minister as being principally responsible for her brutal burning : While fighting for her life in a hospital in Vishakhapatnam, the victim made both oral and written statements relating the incident. The Commission issued notice to both the private Television Company and the State Police for submission of the victim's oral & written statements at their disposal respectively. The Inquiry Committee made a detailed examination of all the statements of the victim from her death bed.

The victim's oral statement submitted before the Inquiry Committee names the Chief Minister of Odisha as being principally responsible for the incident followed by the Administration and the political influence respectively whereas all the three written

statements describes the event of October 27 around 9.20 p.m. when an unknown person abuses her for not withdrawing the FIR against the alleged accused school SI and throws kerosene at her, setting her on fire.

Though none of the statements have been made before a Judicial Magistrate and one statement made before an Executive Magistrate, all the four statements hold equally good as they are not contradictory to each other and are crucial for the outcome of the case. Delivering the judgement in Kusum Rani case on May 22, 2013, the Hon'ble Supreme Court has clearly ruled that "there is no requirement of law stating that a dying declaration must necessarily be made before a magistrate".

The victim in the oral statement from her death bed expressly naming the Chief Minister of the state as being principally responsible for the brutal incident, is indeed a very serious matter. What led the victim to name the Chief Minister of the state, as being principally responsible for her brutal burning, should be immediately subjected to an independent and detailed probe.

5. Fix Responsibility of Officials on Women Security : The State Government is asked to immediately convene a meeting of all its top district and state-level officials to handover a clear mandate on how to handle cases of women security, their respective responsibility and the liability arising out of mishandling of such cases. Isn't it stupid to hear from a District Collector & SP that their orders were not being carried out by their subordinates, despite several reminders over a period of four months, that finally leads to the brutal killing of an innocent girl ?

6. Immediate Orientation of all Police Officials : The State Government is asked to conduct an orientation of all police officials of the state to deliver a clear instruction on ways and methods to deliver swift and adequate justice to women and the penalties for non-compliance.

7. Publication of Women's Citizen Charter in all Newspapers : The State Government is asked to make arrangement for publication in all leading newspapers in the state of a 'Women's Citizen Charter' containing details regarding rights of women on seeking redressal for their grievances. The charter should include contact details of authorities at different levels, time period for disposal of grievances and penalty for officers for non-compliance.

8. A Memorial to remember the exemplary spirit of the Victim : The victim has shown exemplary courage to fight for justice and not to give in even at the cost of her own life. Her fight today stands out as an inspiration for the entire women community.

As a mark of tribute, it would be a befitting gesture on part of the State Government to rename its flagship schemes for women by the name of the victim. The State Government is also suggested to take steps to construct a memorial at the victim's native place as a mark of remembrance.

9. State Chief Secretary to file ATR within 7 days : The State Chief Secretary is asked to send details regarding action taken on the report within 7 days of receiving this report. In event of failure to comply, the authority would be summoned under Section 10(4) of National Commission for Women Act 1990 to appear in person before the Commission at its headquarter at Delhi.

10. Laying this report in the State Assembly : As per section 10(3) of National Commission for Women Act 1990, the State Government is mandatorily required to cause this report to be laid before the State Assembly with a memo explaining the action taken on it.

I am directed to communicate that the State Government is requested to kindly take appropriate action in the matter and kindly intimate the Commission about action taken expeditiously.

Yours sincerely,



(Raj Singh)

Deputy Secretary