

IN THE HIGH COURT OF JHARKHAND AT RANCHI

WP(C) No.389 of 2023

Anil Kumar Tiwari, Former O/C Kuru Police Station, aged about-41 years, S/o Late Birendra Tiwari, R/o Village-Baulia Ranka, P.O.-Garhwa, P.S. Garhwa, Dist-Ranchi at present posted as Police Inspector of ATS, Dhurwa, Ranchi. ... **Petitioner(s)**.

Versus

1. The State of Jharkhand through Chief Secretary, Govt. of Jharkhand, office at Project Building, P.O.-Dhurwa, P.S.-Jagarnathpur, District-Ranchi.
2. The Acting Chair Person, Jharkhand State Human Rights Commission, Ranchi at Town Administrative Building, H.E.C., Sector-III, Dhurwa, Gol Chakkar, P.O.-Dhurwa, P.S.-Jagarnathpur, District-Ranchi.
3. The Director General of Police of Jharkhand, at Police Head Quarter near Project Building, P.O.-Dhurwa, P.S.-Jagarnathpur, District-Ranchi.
4. The Superintendent of Police, ATS, Jharkhand, Ranchi, P.O.-Dhurwa, P.S.-Jagarnathpur, Dist-Ranchi.
5. The Under Secretary, Jharkhand State Human Rights Commission, Ranchi at Town Administrative Building, H.E.C., Sector-III, Dhurwa, Gol Chakkar, P.O.-Dhurwa, P.S.-Jagarnathpur, District-Ranchi.
6. Uday Kumar Gupta, Son of Ram Kishore Prasad Gupta, Resident of Village-Badki Chapi, P.O. and P.S.-Kudu, District-Lohardaga. ... **Respondent(s)**.

CORAM : SRI ANANDA SEN, J.

For the Petitioner(s) : Mr. Ajay Kr. Pathak, Advocate
For the State : Mr. Zaid Imam, AC to SC-VII
For the Resp. No. 6 : Mr. Debopriyo Pal, Advocate
Mr. Navneet Kr. Dhan, Advocate
Mr. Vivek Singh, Advocate

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08 /01.04.2026: Heard the learned counsel representing the petitioner and the learned counsel representing the respondents.

2. The petitioner is aggrieved by the order dated 03.11.2022 in JSHRC Case No. 527 of 2021 passed by the Acting Chairperson of Jharkhand State Human Rights Commission, Ranchi whereby an order was passed directing the petitioner to pay Rs. 1,00,000/- as compensation to the victim respondent no. 6-Uday Kumar Gupta. Further it was directed that the Superintendent of Police, ATS,

Ranchi shall ensure that the amount of compensation is paid and deducted from the salary of this petitioner who at that point of time posted as Police Inspector, ATS, Dhurwa.

3. Learned counsel for the petitioner submits that the impugned order giving a direction to make payment of compensation to the alleged victim and directing the Superintendent of Police, ATS to ensure that the amount of compensation is deducted from the salary of the petitioner and paid to the victim is beyond the jurisdiction of the Chairperson of the Jharkhand State Human Rights Commission. He submits that the order beyond the jurisdiction needs to be set-aside.

4. Learned counsel for the State admits that the nature of the direction given by the Chairperson, Jharkhand State Human Rights Commission is beyond the provisions of Section 18 of the Protection of the Human Rights Act, 1993.

5. Learned counsel appearing on behalf of the respondent no. 6 submits that the respondent no. 6 was arrested illegally and thus, an amount of compensation was directed to pay.

6. For deciding this application it is not necessary to go into the details of the factual aspects of this case. It is an admitted case that the respondent no. 6 was arrested. He lodged a complaint before the Jharkhand State Human Rights Commission alleging his illegal arrest. Whether the arrest was illegal or not, I am not entering into that aspect but the fact remains that the Chairperson, Jharkhand State Human Rights Commission vide impugned order dated 03.11.2022 held that the action of the petitioner is illegal and the victim needs to be compensated by paying Rs. 1,00,000/- as compensation. Further it was directed that the Superintendent of Police, ATS will ensure deducting the aforesaid amount from the salary of the petitioner and paid to the victim.

7. Section 18 of the Protection of the Human Rights Act, 1993 provides for the steps which needs to be taken during and after enquiry. It is necessary to quote section 18(a) of the Protection of

the Human Rights Act, 1993, which are as follows:

18. Steps during and after inquiry.—The Commission may take any of the following steps during or upon the completion of an inquiry held under this Act, namely:—

(a) where the inquiry discloses the commission of violation of human rights or negligence in the prevention of violation of human rights or abetment thereof by a public servant, it may recommend to the concerned Government or authority—

(i) to make payment of compensation or damages to the complainant or to the victim or the members of his family as the Commission may consider necessary;

(ii) to initiate proceedings for prosecution or such other suitable action as the Commission may deem fit against the concerned person or persons;

(iii) to take such further action as it may think fit;

8. As per Section 18(a) it is clear that if the enquiry discloses commission of violation of the human rights, the Commission may recommend to the concerned Government or Authority, to make payment of compensation or damages to the victim or the family of the victim. Thus, the Commission has the power only to recommend.

9. In this case no recommendation was made rather an order was passed which is in the nature of a mandamus, which can only be issued under Article 226 of the Constitution, which is beyond the jurisdiction of the said Human Rights Commission.

10. Considering the aforesaid facts, on the face of it, I find that the direction in the impugned order is bad. Thus, the impugned order dated 03.11.2022 passed in JSHRC Case No. 527 of 2021 is set-aside.

11. Accordingly, this writ petition stands **allowed**.

(ANANDA SEN, J.)