
(2021) 11 OHC CK 0080
In the Orissa High Court
Case No : Writ Appeal No. 869 Of 2021

Tapan Narayan Rath And Another

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 11-11-2021

Acts Referred:

Citation : (2021) 11 OHC CK 0080

Hon'ble Judges : Dr. S. Muralidhar, CJ; A.K. Mohapatra, J

Bench : Division Bench

Advocate : K.P. Mishra, Suman Pattanayak

Final Decision : Dismissed

Judgement

1. The challenge in the present appeal is to an order passed by the learned Single Judge on 29th October 2021 dismissing the Appellants' writ petition i.e. W.P.(C) No.33429 of 2021 which had sought the quashing of recommendations made by the Odisha Human Rights Commission (OHRC) on 7th September, 2021.
2. The recommendation of the OHRC was to the effect that a regular case should be registered on the complainant's report and that for violation of the human rights of Jihit @ Abhijit Mohuria, the son of the Complainant-Prabina Mohuria, compensation of Rs.30,000/-should be paid by the State Government. It was further ordered that if the compensation amount was paid, proceedings should be initiated to recover the said amount from the present Appellants one of whom was serving as the Inspector In-Charge and the other who was serving as Sub-Inspector of Police of Jeypore Town P.S., in equal proportion.
3. This Court has heard the submissions of Mr. K.P. Mishra, learned Senior counsel appearing for the Appellants.
4. It is submitted by Mr. Mishra that there were no materials to substantiate the allegation of unlawful detention of Abhijit Mohuria, and therefore, there was no factual or legal basis for the OHRC's findings and recommendations in that

regard.

5. The impugned order of the OHRC notes that when the Superintendent of Police, Koraput failed to indicate anything about this incident in his report, the OHRC was constrained to ask its own investigation wing to conduct an enquiry. That enquiry came up with the finding that Abhijit Mohuria was illegally detained between 29th October and 2nd November, 2016.

6. However, the OHRC did not stop at that. It invited a response from the present Appellants. They appeared through an advocate and kept taking time for submitting a response. On three dates opportunity was given to them by the OHRC to file a response. However, no response was filed.

7. Consequently, this Court is not impressed with the submissions of Mr. Mishra that adequate opportunities were not given to the Appellants to place their version of the events before the OHRC.

8. As regards the absence of proof or documents being submitted by the complainant, given the nature of allegations and the fact that the persons against whom the complaint was given were policemen who were in complete control of the records and possible witnesses, it is a herculean and well-nigh an impossible task for any ordinary person, who is a victim of police excesses, and with little means or access to resources, to be able to gather evidence. It is only a statutory body like the OHRC which has an exclusive investigating wing, which incidentally is itself comprised of police officers of the State who come over on deputation, which can possibly unearth the truth. The ability to provide redress to victims of state and police excesses is what makes the role of the OHRC, and other human rights bodies in general, significant.

9. In any event, the impugned order of the OHRC was in the nature of recommendations and should not be construed as a final opinion. Which is why the recommendation itself is only that a regular case be registered. That will obviously take its own course in accordance with law. As regards the compensation amount, it is insubstantial to warrant any interference by this Court.

10. Consequently, the Court finds no error having been committed by the learned Single Judge in declining to interfere with the impugned order of the OHRC. The writ appeal is accordingly dismissed.

11. An urgent certified copy of this order be granted as per rules.

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