

One Muslim youth was taken in custody of BSF and tortured barbarically then released, inaction of police - Impunity prevails

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7 April 2022 at 12:38

To: "Justice Shri H. L. Dattu" <chairnhrc@nic.in>, NHRC Complaint <cr.nhrc@nic.in>

Cc: "Home Secretary Govt of W.B." <wb.secyhome@gmail.com>, DG BSF <edpdte@bsf.nic.in>, "DG & IGP, West Bengal Police." <dgpwestbengal@gmail.com>, SP Basirhat K P Barui <spbasirhatoffice@gmail.com>, UN SR On Torture <Sr-torture@ohchr.org>, UN Enforced Disappearance <petitions@ohchr.org>

To

7 April 2022

The Chairman

National Human Rights Commission

Manav Adhikar Bhwan

Block – C, G.P.O. Complex, INA

New Delhi – 110023

Respectable Sir,

I am writing to you regarding a case of brutal torture upon a youth from the Muslim community by two constables of the Border Security Force and one G branch officer, all are on duty, attached with Hakimpur Border Out Post, 'F' Company, 112 Battalion. The victim and his family reside in Daharkanda village, Swarupnagar Block and police station in the district of North 24 Parganas. When the victim was going to Swarupdaha market via Kamarpota, the BSF personnel apprehended him with silver. They beat him repeatedly with thick cable wire, gravely injuring him on back and leg and bruise mark arose from the injured part of his body. About seven hours the victim was in the custody of the BSF and he was continuously tortured by the BSF. After that the victim was handed over to the Custom department who released the victim after checking his all documents. No case was made against him. He was treated in the Sarapul Rural Hospital. On 27.02.2022 the victim filed a written complaint to the Superintendent of Police, Basirhat Police District but till date, no FIR has been lodged against the perpetrators. The details of the incident are provided in the fact-finding report attached below.

This incident is among a spate of other incidents of torture, physical assault, illegal detention and extrajudicial killings upon marginalized communities, specifically on the Muslim minority community. The arbitrariness of the violence committed on the victims is evidence that the violence is motivated by an intention to discriminate against and target a particular section of society on the basis on religion.

The incident entails a clear violation of Article 14, 19 and 21 of the Constitution of India. The Police have violated the Supreme Court Guidelines in the Lalita Kumari Judgment which makes it mandatory for them to lodge a FIR in cases of cognizable offences. The incident also violates the Universal Declaration of Human Rights and Article 7 and 12(1) International Covenant on Civil and Political Rights that India is party to. The incident and subsequent impunity legitimize our long-standing demand for immediate ratification of United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment.

Therefore, I seek your urgent intervention in the case by fulfilling the following demands:

- On duty BSF should be posted at the international border, through IBP, not in villages.
- The whole matter must be enquired into by one independent inquiring agency.
- Immediately register the written complaint of the victim to the as First Information Report and proper investigation must be required.
- Concerned police authorities must be directed to take immediate action for proper investigation of the case.
- Mr. Jayprasad, 'G' branch officer and two other BSF constables (Mr. Debanan Jha and Mr. Rakesh) who are accused of committing the crime in their custody should be immediately brought under trial and prosecuted.
- The victim should be compensated for the grave injuries inflicted on him.
- The BSF should be stationed at the zero point and not inside villages.
- Security and safety of the victim and his family members must be ensured.

Thanking you,

Yours truly

Kirity Roy

Secretary, MASUM

&

National Convener, PACTI

Details of the victim: Mr. Saibuddin Gazi, son of Mr. Jiyad Ali Gazi, aged about 26 years, Occupation – agricultural labourer, Religion – Islam, residing at village Daharkanda under Swarupnagar block and Police Station in the district of North 24 Pargana

Details of the secondary victims: (i) Mr. Jiyad Ali Gazi, father of the victim; (ii) Ms. Safura Bibi, mother of the victim; (iii) Ms. Jahanara Bibi, wife of the victim; (iv) Master Irfan Gazi, all are residing at village Daharkanda under Swarupnagar block and Police Station in the district of North 24 Pargana.

Date & time of the incident: On 26.02.2022 at about 10.30 am

Place of incident: Hakimpur Border Out Post, F Company, 112 Battlion BSF

Details of the perpetrators: (1) Mr. Jayprasad, Inspector G Branch; (2) Mr. Debanan Jha and (3) Mr. Rakesh all are attached with Hakimpur Border Out Post, F Company, 112 Battlion BSF; (4) Concerned district police administration who did not take proper step against the perpetrator BSF personnel after knowing that a cognizable crime had been committed by them.

Details of the incident: On 26.02.2022 at about 10.30 am Mr. Saibuddin Gazi was apprehended at Kamarpota 14 no. point by the Border Security Force personnel attached with Hakimpur Border Out Post, F Company, 112 Battalion when he tried to go Swarupdaha via Kamarpota with silver. He was taken to the Hakimpur Border Out Post. 4 to 5 BSF personnel including Mr. Jayprasad, Inspector G branch; Mr. Debanan Jha and Mr. Rakesh tortured upon the victim in the Hakimpur Border Out Post when he was kept in their custody. Mr. Saibuddin was taken to a room in the Hakimpur Border Out Post. There those BSF personnel tied his hands, feet, eyes and face with cloth and rope. They abused and assaulted him. The BSF personnel beat him repeatedly with thick cable wire, gravely injuring him on back and leg and bruise mark arose from the injured part of his body. At about 5.30 pm Mr. Saibuddin was handed over to the custom office situated at Tetuliya. From 10.30 am to 5.30 pm the victim was in BSF custody and there he was victimized of continuous physical assault by the BSF personnel. At about 6.00 pm the officials of the custom freed him and returned his silver. No case was made against him. The victim returned back to his home. As his health condition was deteriorated, the victim was taken to the Sarapul Rural Hospital at 11.30 pm. At about 12 midnight the doctor in the emergency treated the victim. In the medical documents of the victim vide Reg. No. 2551 dated 26.02.2022, the doctor was clearly written that the victim was physically assaulted by BSF.

On 27.02.2022 Mr. Saibuddin Gazi sent one written complaint to the Superintendent of Police, Basirhat Police District where he stated the whole incident and prayed for proper action against the perpetrator BSF personnel, but till date no action has been taken by the concerned district police administration. Even no FIR was lodged against the perpetrators. This violates section 154 of the Code of Criminal Procedure and apex court guidelines in the case of Lalita Kumari vs. State of Uttar Pradesh [WP (CrI.) 68 of 2008] which clearly states that registration of First Information Report is mandatory under section 154 of the Code of Criminal Procedure if the information discloses commission of a cognizable offence.

This incident is another instance of custodial violence by the BSF and subsequent impunity of the police officials. This culture highly exists in the bordering villages in the State of West Bengal. I appeal to you to take proper action in this respect.

