

BEFORE THE GOA HUMAN RIGHTS COMMISSION
PANAJI – GOA

Proceeding No.106/2022

Urmila Umesh Gaonkar,
H. No. 226, Paltadwada,
Maulinguem-Goa.

... Complainant

V/s

1. The Director General of Police,
Police Headquarters,
Panaji-Goa.

2. The Incharge,
Firing Station,
Ona, Maulinguem,
Bicholim-Goa.

... Respondents

INQUIRY REPORT

(22nd February, 2024)

The complaint dated 07/06/2022, was received from the Complainant praying for compensation on account of the wound caused to her resulting from the bullet fired at the Lakherem Firing Range of the Goa Police at Bicholim-Goa.

2. On perusing the complaint, the Commission by Order dated 16/06/2022, issued notices to the two Respondents, i.e. (1) The Director General of Police, Police Headquarters, Panaji-Goa and (2) The Incharge, Firing Station, Ona, Maulinguem, Bicholim-Goa, calling for their replies.

3. The Respondent No.1 filed their reply on 27/07/2022 and the Respondent No.2 filed his reply on 21/07/2022.

4. Thereafter, the Complainant filed her two Rejoinders to the two replies, on 10/11/2022.

5. The Commission heard Adv. Shri Rahul Kamat for the Complainant and Police Prosecutor, Mrs. A.R. Carvalho for the Respondents.

6. The Commission has gone through the complaint, the replies of the Respondents, the Rejoinders of the Complainant, the documents on record and has considered the submissions on behalf of the Complainant and on behalf of the Respondents.

...2/-

7. The complaint had been filed stating that she resides at Maulinguem and at a distance of around 3 kms. from her house, there is a firing range of the Department of Police and on 27/01/2021, when she was working at her residence a bullet from a gun fired from the Lakherem Firing Range penetrated and hit her right leg. She took medical treatment for around eight to ten days but as the swelling of her leg had not disappeared, she was taken to the Goa Medical College on 03/02/2021, wherein she was admitted and she had to undergo a surgery for removing a bullet from her right leg and was discharged on 06/02/2021.

8. She stated that after her discharge, her physical capability to work was badly affected. It is her case that she was earning her daily livelihood by working in various houses and her husband is also a daily wage labourer. She has stated that due to the negligence of the Police Department, she has suffered and as such, she has approached this Commission for compensation from the Police Department.

9. The Respondent No. 1, i.e. the Director General of Police, filed his reply through the Superintendent of Police stating that they had obtained detailed reports from the Police Inspector, Bicholim Police Station and the Incharge, Firing Range, Ona Maulinguem, Bicholim-Goa.

10. The Respondent No. 1 stated that on 02/02/2021, the Bicholim Police Station had received written information from the Complainant that on 27/01/2021, a bullet projectile had hit her on the right leg and fallen in her courtyard and she had taken treatment at PHC, Bicholim. The Respondent No. 1 also stated that the spot of the incident was jointly examined at the residence of the Complainant and it was revealed that the distance between the residence of the Complainant and the firing range is around 3 kms. The Respondent No. 1 also stated that on 03/02/2021, she was referred for medical examination at Goa Medical College,

Bambolim and it was revealed that a bullet projectile was inside the heel of her right leg and surgery was performed and the bullet projectile was removed from her leg. Consequently, Bicholim Police Station registered a case as Other Accident No.01/2021 dated 03/02/2021.

11. So also, the Respondent No. 1 stated that the Sarpanch of Village Panchayat Ona-Maulinguem-Kudchirem had submitted a letter dated 02/02/2021, to the Bicholim Police Station, requesting to take precautionary measures by erecting a safety wall around the firing range or to shift the same to some other convenient place to avoid any untoward incident in future. So also, the Sarpanch had filed a complaint with the DGP office that the Complainant had been hit by a bullet projectile while she was washing clothes at her residence and the Panchayat had also received complaints from three other persons stating that three bullets projectiles were found in their locality.

12. The Respondent No. 1 further stated that the Incharge of the Firing Range, conducted a detailed inquiry and the inquiry revealed that **'stray bullets had been flying over the hillock and landing in the village which is about two kilometers from the firing spot'**. Thereupon, firing was stopped till further Orders and at present no firing practice is conducted at the Firing Range, Maulinguem, Bicholim-Goa.

13. The Respondent No. 2 had filed a reply on similar grounds and stated that there was no negligence on the part of Goa Police Department as all precautionary measures were taken at the Firing Range at the time of firing practice to ensure safety and security of the villagers residing in the surrounding areas.

14. In her Rejoinders, the Complainant reiterated that the gunshot fired from the Firing Range travels over the hills and falls in the village of Maulinguem on several occasions and denied that the firing had stopped after the incident with the Complainant.

15. The Commission has considered the submissions of Adv. Shri Rahul Kamat on behalf of the Complainant and of Police Prosecutor Mrs. A.R. Carvalho on behalf of the Respondents.

16. The undisputed fact emerges that the Complainant had sustained a bullet injury on the heel of her right leg on 27/01/2021 and she was eventually hospitalized at the Goa Medical College, Bambolim, where she underwent a surgery and the bullet was removed on 03/02/2021. Though the Police Prosecutor contended that there was no negligence on the part of the Respondents and the Complainant may have come close to the firing range despite the warnings, **the fact that the bullet was fired from the Firing Range is not denied by the Respondents.** The complaint and the subsequent developments indicate that the Complainant had sustained an injury near her residence at Maulinguem, when she was washing clothes in her courtyard.

17. Again, though the learned Police Prosecutor submitted that the maximum range of the projectile fired from the gun is 1350 meters and the residence of the Complainant is beyond that distance, **the very reply of the Respondent No. 1 admits that the inquiry conducted by the Police Department reveals that stray bullets had been flying over the hillock and landing in the village which is about two kilometers from the firing spot, as found in para 7 of the reply of the Respondent No.1 dated 27/07/2022.**

18. The complaint had been filed before the Bicholim Police Station by the Complainant on 02/02/2021 regarding the bullet injury sustained by her on 27/01/2021 and the reply of the Respondent No.1 again indicates that the Bicholim Police Station had registered a case as Other Accident No.01/2021 dated 03/02/2021.

19. There is also a letter dated 02/02/2021, which is written by the Sarpanch of Village Panchayat Ona, Maulinguem, Kudchirem

to the Police Inspector of the Bicholim Police Station regarding this incident and suggesting to construct a safety wall around the Firing Range or to shift the same to some other convenient place to avoid any untoward incident in future.

20. The discharge card of the Complainant of the Goa Medical College, Bambolim, indicates that she was admitted on 03/02/2021 and discharged on 06/02/2021 and was found to have a bullet injury and she was operated on and the bullet was removed.

21. Under Section 2(d) of the Protection of Human Rights Act, 1993, “human rights” means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.

22. In ***Union Carbide Corporation and Ors. v. Union of India and Ors., [1991] 4 S.C.C. 584***, the Supreme Court stated that we have to develop our own law and if we find that it is necessary to construct a new principle of liability to deal with an unusual situation which has arisen and which is likely to arise in future, there is no reason why we should hesitate to evolve such principle of liability.

23. In the case of ***Joginder Kaur v. The Punjab State and Ors., 1996 ACJ 193, (1995) 109 PLR 117***, it was held as under :-

“In the matter of liability of the State for the tort committed by its employees, it is now the settled law that the State is liable for tortious acts committed by its employees in the course of their employment”.

24. In ***N. Nagendra Rao v. State of AP, AIR 1994 SC 2663***, the Supreme Court held that the State is vicariously liable and bound, constitutionally, legally and morally, to compensate and indemnify the wronged person.

25. The Supreme Court has always leaned in favour of a welfare state. Hence, wrong committed by a government servant can be attributable to the State and can be compensated.

26. In the facts of the present case, and guided by the case laws cited above, the Commission agrees with the submissions of the learned Advocate for the Complainant that the Complainant has made out violation of her human rights due to the actions of the Respondents in conducting their firing practices, resulting in a bullet travelling beyond the Firing Range and injuring the Complainant. The acts of the Respondents resulted in injury to the Complainant and loss of work to her for over three months as well as pain and suffering.

27. Considering that she was working as a domestic helper and that the wages in Goa for such work were around Rs. 12,000 per month, for **“Loss of wages”**, for three months, she is entitled for Rs.36,000/- and for **“Pain and Suffering”** due to the injury, Rs.14,000/- is a reasonable amount. Thereby, we find that Rs.50,000/- can be considered the quantum of Loss to her, resulting from the acts of the Respondents.

28. Under Section 18(a) (i) of the Protection of Human Rights Act, 1993, 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;

29. The Commission considers that the Complainant is entitled for compensation of Rs.50,000/- (Rupees fifty thousand only) from the Respondent No.1 as she had sustained the bullet injury from the bullet which had travelled from the Firing Range operated by the Respondent No.1 at the Firing Station at Ona, Maulinguem.

30. Accordingly, the Commission recommends that the Respondent No. 1 pays compensation of Rs.50,000/- (Rupees fifty thousand only) to the Complainant, within 30 days from today, alongwith Simple Interest thereon at 6% p.a. from the date of the complaint i.e. 07/06/2022 till final payment.

31. The Commission notes as stated in the replies of the Respondents that the Firing Range at Maulingem has been closed down. This was also submitted by the Police Prosecutor at the time of arguments. Accordingly in this respect, no relief is necessary from the Commission.

32. Under Section 18(e) of the Protection of Human Rights Act, 1993, the Commission shall send a copy of the Inquiry Report together with its recommendations to the concerned Government or authority and they shall, within a period of one month or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken, to the Commission.

33. Copy of the Inquiry Report be sent to the Respondent No 1, calling for their comments, including the action taken or proposed to be taken within a period of 30 days or on or before 26/03/2024, in terms of Section 18(e) of the Protection of Human Rights Act, 1993.

Date : 22/02/2024

Place : Panaji-Goa.

Sd/-
(Desmond D'Costa)
Acting Chairperson/Member
Goa Human Rights Commission

Sd/-
(Pramod V. Kamat)
Member
Goa Human Rights Commission

