

Tortured to death in custody of police and military in Assam - Please take action

Kirity Roy <kirityroy@gmail.com>

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To: hrd-nhrc@nic.in, "Justice Shri H. L. Dattu" <chairnhrc@nic.in>, Secretary General <sgnhrc@nic.in>

Cc: dgp@assampolice.gov.in, m.subbarayan@nic.in, webmaster.indianarmy@nic.in, UN SR On Torture <Sr-torture@ohchr.org>, UN SR on EJK <eje@ohchr.org>

To
The Chairperson
National Human Rights Commission
Manav Adhikar Bhawan
Block- C, GPO complex, INA
New Delhi – 110023

22 June 2020

Respected Sir,

Here I want to draw your kind attention upon another incident of custodial death of one young boy belongs to Scheduled Tribe (Plains) community in the custody of the Borholla police and 244 Army Regiment of Charaideo district. This incident proves another time that how the police and army personnel are enjoying full impunity after causing to death of the victim and irresponsible attitude towards the family members of the victim.

A young boy namely Mr. Jayanta Bora in Jorhat district of Assam, who had been picked up by a joint team of the state police of Assam and associate the Army attached with 244 Army Regiment of Charaideo district during an anti-insurgency operation on the night of June 15, has died in custody. He breathed his last on the next day of his arrest. In fact finding details I narrate how these police and army personnel by joining their hand together conspired to murder an innocent young victim and tried to tamper the evidences to cover up their criminal attitude.

- 1) Mr. Jayanta Bora's family members were not informed when his health condition was deteriorated and even after his death they were not inform the family members.
- 2) It is alleged that the inquest was not done by any Judicial Magistrate which is completely violated of section 176 (1A) of the Code of Criminal Procedure where it is stated in case of custodial death, inquest should be done by a Judicial Magistrate.
- 3) It is mandatory rule that at the time of inquest, the family members, friends of the deceased are to be present. Why police and State of Assam failed to comply this?
- 4) Even during the time post mortem of the deceased the family members were not informed and without any knowledge of the family members, post mortem examination of the deceased victim was completed.

It is to be noted that on 23.01.2020 Supreme Court of India issued notice to the Centre and States on implementation of section 176 (1A) by human rights activist Suhas Chakma. But the present position is still same as in previous. The matter is a grave one which proves the collapse of Criminal Justice System in our country.

The involved perpetrators violated basic premise of Article 21 of Indian Constitution as well as the international obligations stated in Article 6 (1) and 7 of International Covenant on Civil and Political Rights as well as the Goal number 8 and 16 of Sustainable Development Goal earmarked by United Nations and in both these international instruments; the government of India is a party and have agreement.

I am appending a brief account of the incident for your easy reference and demand for –

- An urgent and independent judicial inquiry must be started over the incident.
- The erring police and Army personnel relating to this case who try to hide the truth of the case must be booked under appropriate legal provisions and be tried in open court of law.
- The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. 1989 to be added in Borholla Police Station case number 80/2020 under section 120B/302/34 of Indian Penal Code regarding the death of Mr. Jayanta Bora.
- This case should be investigated by investigation wing of NHRC.

- Disciplinary action should be taken against those police officials who being known this case as a custodial death, not to inform any judicial magistrate.
- Post Mortem Examination Report of the deceased victim should be examined by NHRC.
- NHRC's 'Revised Guidelines/ Procedures to be followed in courses of deaths caused in police action' must be adhered in letter and spirit.
- The family must be provided with financial compensation and adequate safety and security of the family members and witnesses must be ensured.
- The case should be heard by open criminal court of jurisdiction, not in military court.

Sincerely Yours

Kirity Roy
Secretary
Banglar Manabdhikar Suraksha Mancha (MASUM)

Details of the victim: Mr. Jayanta Bora (deceased); son of Late Hemo Bora; aged about 23 years; residing at Balijan Habichuk, Raidangjuri Panchayat, Borholla, Titabor, Jorhat District, Assam, Pin 785631

Date & Time of the incident: On 15.06.2020 at about 12.30 am and afterwards

Place of the incident: The victim was arrested from his own house and died in the custody of the Borholla Police Station and Army officials attached with 244 Army Regiment of Charaideo district.

Details of the perpetrators: (i) Police personnel of Borholla Police Station who arrested Mr. Jayanta Bora including the Officer in Charge of Borholla Police Station, Mr. Mintu Handique who was presented at that time of arrest of the victim; (ii) Army officials attached with 244 Army Regiment of Charaideo district including Army Major General Mr. Sochin Singha who was present along with the troops during the time of arrest of the victim.

Details of the incident: Mr. Jayanta Bora. 23 years old man was an unemployed youth and he studied however did not complete graduation. His father worked in Indian Army and died in 2012. Jayanta lived with his family. He was a social person and was liked by all in the village. He was also a village level primary member of Thengal Kachari Autonomous Council. On 14 June 2020 he went to collect a cheque from the Thengal Kachari Autonomous Council, which was given for the construction of a village temple.

On 15th of June, 20 at around 12:30am, Mrs. Lila Bora, mother of the victim Jayanta Bora and his grandmother heard sounds of someone knocking at the door continuously and vigorously. They didn't open the door thinking that it might be a thief or miscreants. After 5-10 minutes, they heard a female voice asking them to open the door and also mentioned that they are from the police and there's no need to get scared. Jayanta himself opened the door and they saw 3 Police personnel namely Mintu Handique, Gupal Doley was on civil dress, Amit Hojai along with a Lady Police. They entered the house and started searching the rooms. Also went to Jayanta's room. Lila Bora remained astonished, confused and sat on a chair nearby. The Police Personnel continued their search and scattered household stuffs in Jayanta's room and took his phone. Officer in Charge of Borholla Police Station Mr. Mintu Handique told Lila Bora that her son will be taken into custody and Jayanta had to go with them. She said she will be sending him in the morning, but OC said since he has come to take him, Jayanta had to go along with him. Jayanta's grandmother went to the backyard and saw around 15-20 Army Personnel surrounding their house from all sides. The Officer in Charge of Borholla Police Station Mr. Mintu Handique before leaving the premises with Jayanta forcefully took 3 signatures from his mother and 3 signatures from Jayanta in some documents. Jayanta's mother is not sure whether it was blank or something written on that since it was night time. When she asked why their signatures are taken, the Officer in Charge of Borholla Police Station told since he is taking Jayanta with him at night, the signatures from both of them were necessary. Jayanta had a glass of water from his grandmother. Finding no other option to negotiate with police, Jayanta went with the police. He was in a healthy condition. His mother informed that Jayanta was surrounded by police while taking him to the vehicle. They had parked their vehicles 200 meter away from the house, near a temple.

Be it mentioned that during the time of arrest police officials of Borholla police station were on civil dress and therefore violated section 41B(a) of Code of Criminal Procedure, where it is stated that every police officer while making an arrest shall bear an accurate, visible and clear identification of his name which will facilitate clear identification

Soon after that Mrs. Lila Bora called her brother and informed them about the incident. Jayanta's maternal uncle and his wife immediately reached their house. They were with the family and kept waiting till morning. There was no information about Jayanta. Jayanta's mother along with her brother & his wife went to the Police Station of Borholla and reached the Police Station at around 7:30 am. She went directly to the Police Cell to look for her son. She found him nowhere in the police station and then she went to Officer in Charge of Borholla Police Station, Mr. Mintu Handique and asked for whereabouts of Jayanata and exact place where they have kept her son. The Officer in Charge of Borholla Police Station informed her that he does not know anything and Jayanta has been handed over to the Army and is in their custody now. Lila Bora kept insisting on further information. After sometime she was informed that Jayanta fell sick and was taken to Borholla Hospital and then from there he was referred to Jorhat Medical College Hospital. She asked the reason why was she not informed about Jayanta's illness. Officer in Charge did not give any answer. Lila Bora along with her family members then rushed to the Medical College Hospital in Jorhat town. Jayanta's mother and uncle thought as he had admitted in hospital, they might require some money and so he went to withdraw money from the nearby Assam Gramin Vikash Bank branch. It was around 9 am. Bank was not open then. They were waiting outside the bank, one lady home guard was accompanying them who suggested going to the hospital first and then withdrawing money later.

In the meantime her son-in-law arrived and told her "Jayanta is no more". She started crying, shouting and asked the Officer in Charge what they have done to her son. The Officer in Charge of Borholla police station said they have done nothing and once Army took him, police knew nothing. People from various organizations reached to protest in front of the Borholla Police Station and submitted a memorandum to Chief Minister of Assam demanding immediate action against the Police & Army Personnel who were involved in Jayanta's murder.

Few eye witnesses including Jayanta's brother-in-law, Mr. Mukul Saikia informed the Fact Finding team that they have noticed injury marks in Jayanta's body. They noticed injury marks on the side of right ear and neck and also noticed blood spot and holes. His right side of the face was fractured. There was mark of hitting him with rifle butt. There were contusions in forehead, and eyebrow areas till nose, and contusions in the back side of the neck areas. There was mark of boots on the lower side of the right stomach. Contusion was seen in the back of the body (left side), 3 contusion lines were seen in the left hand, and his testicles were swollen.

According to villagers, Mr. Jayanta Bora was very social and jovial person. There was no incident till date; they have not noticed him and his family getting involved in kind of anti-social activities. They said once he took a video of one Additional Sub Inspector of Police, Mr. Nijamuddin Ahmed taking bribe in one case, which got viral in social media from some other account without knowledge of the deceased victim

The family, villagers, civil society organizations refused to receive the body of Jayanta without any assurance of justice from government. It is alleged that the inquest of the dead body was not done by any Judicial Magistrate. Here another question lies, section 176(1A) of Code of Criminal Procedure clearly stipulates that in case of Custodial Death Judicial Magistrate will inquest the body, but here the administration failed to follow the procedure, why? Even the post-mortem examination of the body was conducted without the knowledge of the family. Family and village people came back home. Jayanta's body was taken by Superintendent of Police, Jorhat, Sub Divisional Police Officer and Officer in Charge of Titabor police came with Jayanta's body to his house at around 4:30-5 pm, 15 June. Since the family refused to receive the body, whole night the dead body remained in the police vehicle. As per information of the family members, next day on 16 June 2020, three police officers Mintu Handique, Gopal Doley and Amit Hojai were suspended from their jobs. On 16 June morning Deputy Commissioner of Jorhat district arrived to Jayanta's house and tried to convince his family and other people to accept the body, still the family refused to accept. Then the body was taken back to Jorhat Medical College Hospital morgue. Same day, Minister Mr. Atul Bora, Member of legislative Assembly Mr, Jugen Mohan, Member of Parliament Mr. Tapan Gogoi, Chief Secretary of Thengal Kachari Autonomous Council Mr. Kumud Kocahri came there and gave written assurance to give 6 lakh compensation to the family from government, 3 lakh from Thengal Kachari Autonomous Council, a job to one member of the family and commission level inquiry will be conducted to fix the accountability of the case. Commissioner of Food and Civil Supply, Mr. Lolit Gogoi is given the charge to investigate the incident and submit report within a week. With all these assurance, the victim's family accepted the dead body of the victim and performed his last rites on the same day. A case was registered bearing Borholla Police Station case number 80/2020 under section 120B/302/34 of Indian Penal Code regarding the death of Mr. Jayanta Bora.

Section 47 (a) of the Assam Police Act, 2007 provides that the role and functions of the police shall broadly be to uphold and enforce the law impartially and to protect life, liberty, property, human rights and dignity of the members of the public. But this case is an instance where police and army officials jointly murdered an innocent young boy. This criminal attitude is again smeared the ink on the reputation of Army and Assam police.

Several questions are rising to read the above mentioned incident –

- What is the allegation against Mr. Jayanta Bora for which he had been arrested by police personnel of Borholla Police station?
- Why the arresting police officials came to the house of the victim in civil dress?
- Why the Army officials did not enter in the house of the victim during the time of his arrest?
- Why the police personnel of Borholla police station forcefully took three signatures from the mother of the victim and three signatures from the victim during the time of his arrest?
- Why the police personnel of Borholla police station transferred the victim to the custody of the Army officials attached with 244 Army Regiment of Charaideo district?
- Why the police officials of Borholla police station did not inform the victim's family for transferring the custody of the victim to the Army officials?
- Was the Borholla police officials informed the district police authority regarding the arrest of the victim that night?
- When the victim physical condition became deteriorated, why the family members of the victim were not informed?
- Who took the victim to Borholla Hospital and then to Jorhat Medical College and Hospital?
- It is alleged that the inquest of the dead body was not done by any judicial magistrate. Why the inquest was not done by any judicial magistrate in this case of custodial death?
- Why the post mortem of the deceased was done without the knowledge of the victim's family?
- What are those injury marks on the body of the deceased victim?