

Date:03-12-2021

To,

The Director General of Police, Assam
Ulubari, Guwahati-781007

Dear Sir,

We, at Citizens for Justice and Peace (CJP), are writing this memorandum in connection with disturbing ground reports, also reported in the media about the sudden increase in what clearly appear to be extra-judicial killings in the state. In fact, one news report has mentioned even that the Assam Human Rights Commission's inquiry into 23 people shot at while in police custody out of which 5 have died. We understand that a magisterial inquiry has been instituted into the 5 deaths and we believe the same will reach a conclusion at its pace. Our intention in writing this memorandum is to respectfully bring to your notice, and to the notice of all the police stations in Assam, the clear and detailed directives given by the Hon'ble Supreme Court on December 3, 2020, regarding installation of CCTV cameras in police stations to prevent instances of power abuse, violence and torture. The treatment of persons detained and conduct of both such persons and officials on duty can then be recorded for further scrutiny, once such installation takes place. This Order of the Hon'ble Supreme Court of India, makes it mandatory for all police stations in the country to adopt this practice. Needless to say such installations can also help and independently assist an inquiry into custodial deaths. More than anything else, CCTV cameras would act as a deterrent for unwarranted and disproportionate use of power by police upon detainees/accused persons.

We would like to reiterate here the judgement passed by the Supreme Court in *Paramvir Singh Saini vs Baljit Singh* (SLP CrI. No. 3543 of 2020) and urge that all the police stations within Assam, immediately initiate steps towards implementation of the said order.

The complete judgement is annexed hereto as Annexure A

In the course of the hearing the court observed that the compliance reports and action taken reports submitted by states failed to disclose the exact position of CCTV cameras in each Police Station.

For easy reference we are spelling out important directions given in the judgement, specifically those that are concerned with police stations and for the Police department to comply with.

- The duty and responsibility for the working, maintenance and recording of CCTVs shall be that of the SHO of the police station concerned.
- The SHO of a police station is to inform the DLOC if there is any fault with the equipment or malfunctioning of CCTVs and if CCTVs are not functioning, "the concerned SHO shall inform the DLOC of the arrest / interrogations carried out in that police station during the said period and forward the said record to the DLOC".

- The Director General/Inspector General of Police of each State and Union Territory should issue directions to the person in charge of a Police Station to entrust the SHO of the concerned Police Station with the responsibility of assessing the working condition of the CCTV cameras installed in the police station and also to take corrective action to restore the functioning of all non-functional CCTV cameras.
- The SHO should also be made responsible for CCTV data maintenance, backup of data, fault rectification etc.

- In order to ensure that no part of a Police Station is left uncovered, it is imperative to ensure that CCTV cameras are installed at
 - all entry and exit points
 - main gate of the police station;
 - all lock-ups;
 - all corridors;
 - lobby/the reception area;
 - all verandas/outhouses,
 - Inspector's room; Sub-Inspector's room;
 - areas outside the lock-up room; station hall;
 - in front of the police station compound;
 - outside (not inside) washrooms/toilets;
 - Duty Officer's room;
 - back part of the police station etc.
- CCTV systems that have to be installed must be equipped with night vision and must necessarily consist of audio as well as video footage.
- The internet systems that are provided must also be systems which provide clear image resolutions and audio.
- **Most important of all is the storage of CCTV camera footage which can be done in digital video recorders and/or network video recorders.**
- CCTV cameras must then be installed with such recording systems so that the data that is stored thereon shall be preserved for a period of 18 months.

[[If the recording equipment, available in the market today, does not have the capacity to keep the recording for 18 months but for a lesser period of time, it shall be mandatory for all States, Union Territories and the Central Government to purchase one which allows storage for the maximum period possible and in any case, not below 1 year]]

Once a complaint is made about custodial violence/death, the State Human Rights Commission/Human Rights Court can then immediately summon CCTV camera footage in relation to the incident for its safe keeping, which may then be made available to an investigation agency in order to further process the complaint made to it

- The Order of the Hon'ble Supreme Court has also stated that: It is also required that at the entrance and inside the police stations there is a prominent display

that the premises are covered by CCTV. This shall be done by large posters in English, Hindi and vernacular language (Assamese, Bengali among others in Assam).

- The Order of the Hon'ble Supreme Court has also stated that: the prominent display outside the police station must also mention that a person has a right to complain about human rights violations to the National/State Human Rights Commission, Human Rights Court or the Superintendent of Police or any other authority empowered to take cognizance of an offence.
- The Order of the Hon'ble Supreme Court has also stated that:: the display outside the police station shall further mention that CCTV footage is preserved for a certain minimum time period, which shall not be less than six months, and the victim has a right to have the same secured in the event of violation of his human rights.

The Hon'ble Supreme Court also made a special note that since these directions are in furtherance of the fundamental rights of each citizen of India guaranteed under Article 21 of the Constitution of India, and since nothing substantial has been done in this regard for a period of over 2½ years since its first order dated April 3, 2018 (read background), the Executive/Administrative/**police authorities are to implement this Order both in letter and in spirit as soon as possible.**

Conclusion

As is evident, the apex court has given detailed instructions with respect to installation of CCTVs in police stations specifically for the purpose of monitoring and keeping in check growing incidents of custodial violence and in many cases custodial deaths, while in police custody. Installing CCTVs in police stations at the specific positions, as prescribed by the Supreme Court will go a long way in keeping errant police officials in check for incidents of custodial violence and torture.

The National Crime Records Bureau (NCRB), in its reports from 2005 to 2018, revealed that 500 deaths of persons in remand were reported out of which, 281 cases were registered, 54 policemen were charge-sheeted, but not a single policeman was convicted during that period. Also, 700 deaths of persons before remand were reported out of which, 312 cases were registered, 132 persons were charge-sheeted and merely 7 persons were convicted during such a long period of 13 years.

In the period between 2014 to 2019, 33 persons (6.1% of the 537 who died in police custody) died due to injuries sustained during custody due to physical assault by police, as per NCRB report. In 2019, two of a total 85 (2.4%) deaths in police custody were attributed to assault by police.

It is to curb the occurrence of such incidents and to bring justice to victims of not just custodial deaths but also of torture and violence, that the Supreme Court has issued these directions. It is humbly requested to take notice of the same and implement the directions forthwith, in order to safeguard basic human right of right to life under Article 21 of the Indian Constitution.

Recent news from the state of Assam about extra judicial killings and custodial deaths are worrying and have created a sense of fear and foreboding among the ordinary people of the state, peaceful and law-abiding. In the spirit of furtherance of the rule of law and the build-up of a good relation between citizens and the police we urge that immediate steps are taken to action the points and directives laid down by the Order of the Hon'ble Supreme Court on December 3, 2020. We are groups and individuals working with communities in the state and urge that this is done at the outset.

Yours sincerely

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Nanda Ghosh, Habibul Bepari (Citizens For Justice and Peace)

Har Kumar Goswami, Shanti Ranjan Mitra (Forum For Social Harmony, Assam)

Mrinal Kanti Shome, Ashit Chakraborty (Asom Majuri Sramik Union)

Faruk Laskar, Debajit Choudhary, (All India Kishan Mazdoor Sabha)

Annexure:

- A- Hon'ble SC Judgement dated December 3, 2020
- B- Background Note on Case