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MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

Administrative Staff College Compound, 9, Hajarimal Somani Marg, Opp. C.S.T.,
Mumbai - 400001.

Tel-Fax: 022-22092857. Website: <http://mshrc.maharashtra.gov.in>

NO.MSHRC/LEGAL/RTI | 1575
Date: 30-10-2010

To,

Captain Nitin Dattatray Joshi,
Resi: C-4, 'Saptasindhu',
Shree Conflex, Belarti,
Badlapur (West),
Dist - Thane - 421 503.

Sub:- As per application send by Lt Col Prasad Shrikant Purohit on
dated 25.10.2010 under Right to Information Act, 2005.

Sir,

As per the above said information, sought documents in case
No.3237/2009-10. Please send your permission letter if permitted to give him the
information/documents or if objected send objection letter to the Public
Information Officer.

In this respect you may contact PIO on telephone No.022-22092857

Neena Khaparde
(Neena Khaparde)
Public Information officer &
Registrar, MSHRC

✓ Copy to Lt Col Prasad Shrikant Purohit
UT-24, Central Prison Taloja,
Sector No.35, Kharghar,
Navi Mumbai - 410 210.

*Received
25/10/2010*

Form - D
Regulation No.15 (b)

MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

Administrative Staff College Compound, 9, Hazarimal Somani Marg, Opp. C.S.T.(VT), Mumbai- 400 001.
Telephone Number: 2207 3434; Fax: 2209 1804 / 2209 3678 / 2207 3434. Website: <http://mshrc.maharashtra.gov.in>

SHRC/VGM/10/2009/
Date : 21 October, 2009

Notice calling for report under Section 17 (1) of the Protection of Human Rights Act, 1993 read with Regulation 15 (b) of the Maharashtra State Human Rights Commission (Procedure) Regulations, 2001.

(Before Hon'ble Member Justice V G Munshi)
Case No. VGM/3237/2009-10/ 2830

To,
The Director General Of Police
Mumbai.

Whereas the Commission has received a complaint from Shri Nitin Dattatry Joshi. dated 05.10.2009 (a copy of which is enclosed herewith), inter-alia alleging violation of Human Rights. And whereas with a view of the complaint of violation of human rights as alleged by the complainant, the Commission has passed the following order on 09.10.2009.

"Call for report from Director General of Police, Mumbai within six weeks."

Take further notice that in the event you fail to submit the required information on the aforesaid complaint, the Commission may proceed to take such action, as it deems fit and proper.

Given under my hand and the seal of the Commission this 21 October, 2009.



By Order

[Signature]
Registrar
Maharashtra State Human
Rights Commission
Mumbai.

Note : To call for from you information in three copies.

The information shall be furnished only by authority
to whom the Notice is issued and no by any body else.

Encl. Copy of complaint

CC: Shri. Nitin Dattatry Joshi
R/at. C-4, 'Saptasindhu'
Shree complex, Belavli,
Badlapur, West. Dist. Thane - 421 503.

(INQUIRY REGARDING COMPLAINT SHOULD BE MADE BETWEEN 2.00 pm TO 4.00 pm)

Form - D
Regulation No.15 (b)

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Administrative Staff College Compound, 9, Hazarimal Somani Marg, Opp. C.S.T.(VT), Mumbai-400 001.
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Shree complex, Belavli,
Badlapur, West, Dist. Thane - 421 503.

(INQUIRY REGARDING COMPLAINT SHOULD BE MADE BETWEEN 2.00 pm TO 4.00 pm)



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION, MUMBAI

Unit 1, Ground Floor, Maharashtra State Human Rights Commission, Opp. C. I. Museum, 400001, Mumbai.
Tel: 2209967, Fax: 2209970, 2209971, 2209972, 2209973. Website: <http://www.mshrc.maharashtra.gov.in>

MSHRC/LEGAL/RTI/1642
Dt :- 29.11.10

To,
✓ Lt Col Prasad Shrikant Purohit
UT 24, Central Unit, Taleja,
Sector No 35, Kharghar,
Navi Mumbai :- 410 210.

Sub :- Your application, dt 19/10/10 dated received on dt 25.10.10 under Right to Information Act, 2005.

Sir,

As per your application, sought information in Case No 3237/2009-10 provided ~~ing~~ information point-wise as below.

- 1) Point No 3 (c) i :- The complainant has filed complaint against said authority ie respondent on 5/10/2009, under section 12 of Protection of Human Rights Act 1993.
- 2) Point No 3 (c) i & 1a i :- The complaint was filed on dt 5/10/2009.
- 3) Point No 3 (c) i a ii :- The complaint was registered as Case No 3237/2009-10, on dt 20/10/2009.
- 4) Point No 3 (c) 1a c :- Case No 3237/2009-10 was filed by the complainant.
- 5) Point No 3 (a d) :- The complaint copy is attached herewith as per the permission by Captain Nalin Joshi, Complainant, is per his letter dt 18.11.2010.
- 6) Point No 1 (ii) (a) :- No info were received by the respondent on dt 21.10.2009.

7) Point No (ii) (ab) :- Case No 3237/2009-10

8) Point No ii (a.c) :- The photo stated copy of notice to the respondent is attached herewith.

With this said information your above said information is disposed off.

Neena Khaparde
(Neena Khaparde)
Public Information Officers,
Registered, MSHRC

Note :- 1st Appliant Authority Secretary, MSHRC, Mumbai

Censored
[Signature]
9/12/10

7163
5/10/07
CL

**BEFORE THE MAHARASHTRA STATE HUMAN
RIGHTS COMMISSION MUMBAI, AT MUMBAI**

COMPLAINT NO.

CAPTAIN NITIN DATTATRY JOSHI

Age: Adult, Occupation: Service,

R/at: C-4, 'Saptasindhu'

Shree Complex, Belavli,

Badlapur, West,

Dist. Thane- 421503.

05 OCT 2007

_____ **Complainant**

V/S

THE STATE OF MAHARASHTRA,

Through Secretary

Notice be served on the Secretary

Department of Home Affairs Maharashtra,

Mumbai.

Mr. Raghuvanshi

Heads of ATS Mumbai,

Mr. D.G. Shrirao

DGP Mumbai

Mr. Mohan Kulkarni

Investigation Officer,

ACP Mumbai.

_____ **RESPONDENTS**

Complaint u/s 12 of Protection of Human Rights Act 1993,

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11
6/10/07

The above name complainant most respectfully submits as follows,

1. The complainant is residing on above mentioned address, and presently doing job of a Commandant at Maharashtra Military School at Village Tokawade, Taluka Murbad. Previously complainant was serving as a captain of Indian Army, in tenure of his service he was known as inspired, devoted and hardcore officer of Indian Army. At the time of retirement he was deployed as a captain of 2 Sikh Light Infantry regiment. After his retirement, inspite of several opportunities in the corporate sector, as a qualified B.A. degree holder, and having diploma holder of Hotel Management from Rizvi College of Bandra Mumbai, complainant has intentionally chose a profession of teaching in the Bhonsala Military School at Nasnik with only intention to motivate generate / develop a young generation with high moral and respect to devote their life to the country.
2. The complainant says that during tenure of his service in Bhonsala Military School, in the year 2005, he met with Col. Prasad Purohit, who was deployed at the Devlali Camp in the same period. The complainant was impressed with Col Prasad Purohit due to his personality, attitude of patriotism and high morals regards to the Nation, hence within the short period of time complainant and Col. Prasad Purohit became good friends of each others. In that period Col. Prasad Purohit introduced Complainant with the 'Abhinav Bharat' a Social organisation, by considering motive behind establishment of 'Abhinav Bharat' and its good valuable work for the nation, complainant also joined and participated in its occasional programs. Meanwhile Col. Purohit was transferred to Pachamadhi at Madhya Pradesh and subsequently it appears that he was arrested for the alleged Malegaon Blast conspiracy.

3. The Complainants says that, after the arrest of Col. Prasad Purohit, ATS officers of Nashik & Mumbai has called Complainant for investigation on number of occasions in the context of Malegaon blast and especially asked the repeated questions about Col. Purohit and 'Abhinav-Bharat', and mentally tortured and threatened him to give favourable statement as they wants.
4. The Complainant says that he was first time called to the ATS office on: 31st Oct 2008 at 20.00 hrs. The ATS officer, Mr. Shekhar Bagade asked him various questions about the main accused, Lt Col Prasad Purohit and the 'Abhinav Bharat'. Complainant told him whatever he knew about both, Complainant was not aware of any illegal activities of Col Purohit or of 'Abhinav Bharat'. Their motive behind starting 'Abhinav-Bharat' was social. We had envisaged it as a social organization and intended to go into politics later on Complainants interrogation continued till 02.00 hrs on 1st Nov 2008.
5. Complainant thereafter received a call from ATS officer Mr. Shekhar Bagade at 1800 hrs on 7th Nov 2008. He said that he wanted to talk to him on the campus of Bhonsala Military School where Complainant was working at that time. He came along with 2-3 other people and sat to talk with complainant in the guest house of Bhonsala Military School. Complainant talked with them from 19.00 hrs till 20.30 hrs. The ATS officer asked Complainant same questions that he had asked previously on 31st Oct. Complainant told them the same things that he had told them earlier. While going, Mr. Bagade said, "You are hiding facts which we want to know from you."
6. The Complainant got call from Mr. Bagade On 12th of November, at 11.00 hrs. The Complainant was busy in office at that time with urgent work. The officer asked him to come to the ATS office immediately. When Complainant told him

that he had certain urgent work in his office, in reply of the same Officer shouted that he did not know anything about it and Complainant will have to come at once.

7. Therefore Complainant reached the ATS office at 1230 hrs and Mr. Bagade again started with the same questions that he had asked Complainant on two previous occasions. After every few minutes, the said officer would go to another room, speak to someone on the phone and come back with more questions. He asked Complainant questions like, "How many times have you gone to Malegaon?" "When did you meet Sadhvi Pragma Thakur?" "When did you go to Bhopal and Jabalpur with Col Purohit?" "When did you go to Delhi and Kolkata with him?" The truth is that Complainant have never been to Malegaon, Bhopal, Jabalpur or Kolkata. Complainant went to Delhi during his army service when Complainant did not know Col Purohit and Complainant have never met the Sadhvi. The Complainant told and replied him these things and the officer got angry and started shouting at him. The officer said, "You do not know what we can do. We can arrest you right now and make you talk." He then went into the next room to talk on the phone and came back and told to the Complainant that he will have to go to Mumbai ATS office.
8. Thereafter Complainant was taken to the Kala Chowki police station Mumbai ATS office by police vehicle; they reached Mumbai at approximately 2200 hrs. ATS officer, Mr. Dilip Shreerao called Complainant into his office and told him that they will make sure that Complainant will imprisoned for at least 15 years if he do not co operate with the ATS. Officer Mr. Dilip Shreerao then again began asking questions which Complainant had answered many times before. These were questions about the activities of Lt Col Purohit and Abhinav Bharat. He then bluntly asked Complainant that, what he knew about the Malegaon blasts and it's conspiracy. Complainant replied that he do not know anything about

these things and told him so. He refused to believe and told Complainant that he will have to go to jail for many years if he do not co operate with the ATS.

9. On the 13th Nov 2008, Complainant was taken back to Nashik by the Nashik ATS team and dropped him to his house. He had to return the same evening to Mumbai with the Nashik ATS team and started from Nashik at 1800 hrs. In the meanwhile, mobile phone of the Complainant (No.98901 98009) was confiscated by the Nashik ATS officer Mr. Lecladhar Kanade. He gave it back to him when they reached the Mumbai ATS office on the evening of 13th Nov. Thereafter Complainant was taken to the room where Lt Col Purohit was being interrogated and made to stand there and see him for a few seconds. Where he saw that Col. Purohit was under arrest. He was made to sit on the floor in a dirty room and the constables interrogating him were using foul language. The Officers was told to the Complainant that the same fate awaited for him, if he did not co operate with the ATS in supporting their case.

10. The officer Mr. Dilip Shreerao again asked Complainant what he knew about the Malegaon blast conspiracy, Complainant replied on the same that he knew nothing. In pursuance of the said answer Mr. Dilip Shreerao threaten the Complainant that, "Joshi, you are not co operating and are going to be in trouble for that." He went out of the room and the Investigation Officer (IO) of the case, Mr. Mohan Kulkarni came into the room and threatening Complainant that they will slap false cases against him if he do not say what they want him to say. He further said that evidence and witnesses can always be created to support their case. Complainant was then taken to the top floor of the ATS office where there is a dormitory and all went to sleep. The Complainant was not able to sleep as he was tense.

11. The next day, at 1000 hrs, Complainant was taken to the office where Mr. Shreerao told him, "Do not think that you can get away. We will get you." Complainant was told to sit in a separate room for some time where various different people asked him the same questions over and over again. At 1300 hrs, the Nashik ATS team took Complainant back to Nashik and dropped him at his home in Bhonsala Military School campus. The ATS officer Mr. Kanade told Complainant, "Wait for my call." On the same evening, at 2000 hrs, Complainant has got a call from Nashik ATS office asking him to come to their office. The Complainant went there and found the IO, Mr. Kulkarni along with another person from Mumbai ATS. Mr. Kulkarni repeated the threat that he had given Complainant on the previous day in Mumbai and added that even family members of Complainant will be made to suffer by implicating them in false cases. The other person with him said, "If we can arrest a serving Lt Col and a Shankaracharya, we can easily do the same with Complainant and his family members."
12. The Complainant says that, faced with a prospectus of being implicated in false cases and the same happening to his family, he agreed to give whatever statement that the ATS wanted he to gives. At the time, a bat came into the room and was flying above them. Mr. Bagade said, "Look at this bat. It flies whenever someone is going to die. It looks like your time is up Nitin". The Complainant was told that if he wants to stay out of jail, he will have to go to Mumbai immediately and to give a statement in front of a magistrate. The IO further told Complainant that the statement will be dictated to him in Mumbai. There after Complainant was taken to Mumbai in a police vehicle accompanied by Mr. Kanade.
13. At the Mumbai ATS office, Mr. Mohan Kulkarni along with the person who had accompanied him to Nashik dictated the statement to Complainant, which he had to give

in front of a magistrate under Sec 164, the following lies were dictated to Complainant:-

(a) Lt Col Prasad Purohit gave Complainant three weapons and ammunition to be kept in his house for a month sometime in 2006. The description of the weapons was also dictated to the Complainant him.

(b) The Complainant saw RDX in his house in a green sack at Deolali.

(c) Lt Col Purohit confessed to Complainant about having supplied RDX for Sanjhauta express blast.

(d) Col Purohit told Complainant in the early 2008 that something was planned to be done soon. He further told him that an action was planned in Nashik district in Oct/ Nov 2008.

(e) Complainant was asked to say that Col Purohit had confessed to him about planning and executing the Malegaon blast along with his accomplices.

(f) Its further dictated that, On Oct 2008, Mr. Rakesh Dhawade had come to stay in Bhonsala Military School. A boy called Praveen had come to visit him with instructions from Col Purohit to learn about marshal arts from Mr. Dhawade. Complainant was told to say that he also learned about weapons and explosives.

14. The Complainant says that, all the while, he was reminded that if he retracted from his statement, he would be made to pay a heavy price for it, and the said statement was given a final shape in the office of Mr. Dilip Shrcerao in consultation with the late Mr. Hemant Karkare. The Complainant during this time, used to go to sleep in the

night at the house of his relatives in Parel. An ATS constable used to accompany him there and sleep at relatives place.

15. The Complainant says, on 18th Nov 2008, he had to go to record his statement in front of a magistrate. Before that the IO, Mr. Kulkarni took complainant to a room in the ATS office and showed him a loaded pistol and threaten, "Do not dare to retract in front of the magistrate from your statement or one bullet from this will be lodged in your brain". Thereafter Complainant was taken to Girgaon court accompanied by Mr. Kanade and a person from Mumbai ATS. Complainant was about to go into the court room, a person from the Mumbai ATS took him in to a corner and showed him a loaded pistol of filled magazine. He repeated the threat that the IO had given complainant at the ATS office.

16. The Complainant says that, after his statement was recorded, it was not sealed but simply put into an envelope which was stapled. Complainant was then taken to the Mumbai ATS office where the IO read his statement and said, "Perfect, this is all right." Thereafter the Complainant was brought back to Nashik in a police vehicle and left home at 0200 hrs on 19th Nov 2008.

17. The Complainant says that on 30th of Nov, he was called to the Nashik ATS office where the IO was present. He asked everyone to go out and told complainant that if he even thinks of retracting, he and his family will face the consequences. Thereafter due to this entire chain of events, his relations with the management of Bhonsala Military School got strained and he had to resign from there after a few weeks.

18. The Complainant says that, he felt down from his own eyes and feels bad about not being able to stand up to the pressure for the truth even though he was a military officer,

It gives him a very guilty feeling all the time. It clearly appears from the above mentioned consequences and episode of facts, how the officers of the ATS have adopted illegal and unconstitutional measures for investigation. It clearly appears how officers of the ATS has fraudulently compelled and obtained statement of the Complainant U/S 164 of Cr.P.C. by showing him threat of death, It clearly shows attitude of the investigation officers, that they will go up to the any extent to create false evidences to prove their case by adopting any illegal method and tactics of investigation. The Complainant most respectfully submitted that due to the said consequences which create great fears, danger and threats to the life of the complainant and his family members.

19. The Complainant states that with reference to the aforesaid facts and circumstances, it is absolutely necessary and expedient to inquire into violation of human rights as stated herein, in the investigations conducted and obtain alleged confessional statement of the Complainant, by the ATS officers in the proceeding of the criminal case i.e. the Malegaon blast case bearing C.R. No.18/2008 ATS Mumbai, being conducted by special MCOCA Court and take appropriate action against the Respondents.

20. The Complainant says that he residing within jurisdiction of this Hon'ble Commission and therefore Hon'ble Commission is competent to try and decide present Complaint as per the provisions of The Protection Of Human Rights Act 1993.

21. The appropriate court fee is fixed herewith.

22. It is therefore prayed that :-

o) The investigation / inquiries in respect of aforesaid violation of human rights may kindly made, the

delinquent officers may kindly prosecuted and appropriate maximum punishment be inflicted against the Respondent and other concerned officers of ATS for their violations of human rights.

- b) The Complainant be provided free and fair environment by this Hon'ble Forum and his statement may kindly be recorded.
- c) The Complainant be provided protection from the Respondents, and respect of the same give specific direction to Respondents not to make any contact, dialogue with the Complainant.
- d) If the attendance of Complainant is required for any further investigation by ATS or any other investigation agencies, the complainant should be permitted to attend /accomplices along with his relatives or advocate, and all the questioning/ investigation should be carried out in their presence.
- e) The monetary compensation to the tune of Rs. 25 Lacks may kindly be awarded to Complainant.

MUMBAI

DATED: 05/10/2009

ADVOCATE FOR COMPLAINANT

COMPLAINANT

VERIFICATION

I, Captan Nitin Dattatry Joshi, Age: Adult, Occupation: Service, R/at: C-4, 'Saptasindhu' Shree Complex, Belavli, Badlapur, West, Dist. Thane- 421503. do hereby stated on solemn affirmation that contents stated in Para No.1 to 22 of the complaint, are true and correct as per best of my knowledge and belief, therefore I have signed this Verification on 05/10/2009 at Mumbai.

COMPLAINANT